

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

**FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

XPeng Inc.

(Exact name of registrant as specified in its charter)

Cayman Islands
(State or other jurisdiction of
Incorporation or Organization)

Not Applicable
(I.R.S. Employer
Identification No.)

**No. 8 Songgang Road, Changxing Street
Cencun, Tianhe District, Guangzhou
Guangdong 510640
People's Republic of China
+86-020-6680-6680**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Amended and Restated 2019 Share Incentive Plan
(Full title of the Plan)

**Cogency Global Inc.
122 East 42nd Street, 18th Floor
New York, N.Y. 10168
+1 (800) 221-0102**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

**Hongdi Brian Gu
Vice Chairman and President
No. 8 Songgang Road, Changxing Street
Cencun, Tianhe District, Guangzhou
Guangdong 510640
People's Republic of China
+86-020-6680-6680**

**Yi Gao, Esq.
Simpson Thacher & Bartlett LLP
c/o 35th Floor, ICBC Tower
3 Garden Road
Central, Hong Kong
+852-2514-7600**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered ⁽¹⁾	Amount to be Registered ⁽²⁾	Proposed Maximum Offering Price per Class A Ordinary Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Class A ordinary shares, par value US\$0.00001 per share	3,000,000 ⁽³⁾	\$19.84 ⁽⁴⁾	\$59,520,000	\$6,493.63

- (1) These Class A ordinary shares, par value US\$0.00001 per share (the “Class A Ordinary Shares”), of XPeng Inc. (the “Company” or “Registrant”) may be represented by the Registrant’s American depositary shares (“ADSs”), each of which represents two Class A Ordinary Shares. ADSs issuable upon deposit of the securities registered hereby have been registered under a separate registration statement on Form F-6 (Registration No. 333-248098).
- (2) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement includes an indeterminate number of additional Class A Ordinary Shares, which may be offered and issued under the Registrant’s Amended and Restated 2019 Share Incentive Plan (the “2019 Plan”) to prevent dilution from stock splits, stock dividends or similar transactions.
- (3) Represents 3,000,000 of Class A Ordinary Shares reserved for issuance with respect to future awards under the 2019 Plan.
- (4) Estimated in accordance with Rule 457(c) and (h) solely for the purpose of calculating the registration fee based on the average of the high and low prices of the Registrant’s ADSs as quoted on the New York Stock Exchange on December 28, 2020 divided by two, the then Class A Ordinary Share-to-ADS ratio.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from this Registration Statement on Form S-8 (the "Registration Statement") in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the introductory note to Part I of Form S-8. In accordance with the rules and regulations of the Securities and Exchange Commission (the "Commission") and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the equity incentive plans covered by this Registration Statement as specified by Rule 428(b)(1) under the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. Incorporation of Documents by Reference

The following document filed by the Registrant with the Commission is incorporated by reference herein:

a. [The Registrant's prospectus](#) filed pursuant to Rule 424(b) filed with the Commission on December 10, 2020, which includes audited financial statements for the year ended December 31, 2019; and

b. The description of the Registrant's Class A Ordinary Shares contained in its Registration Statement on [Form 8-A](#) (Registration No. 001-39466) filed with the Commission on August 21, 2020 pursuant to Section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), which incorporates by reference the description of the Registrant's Class A Ordinary Shares set forth in the Registrant's Registration Statement on [Form F-1](#) (Registration No. 333-242283), as amended, initially filed with the Commission on August 7, 2020, including any amendments or reports filed for the purpose of updating such description.

All documents filed pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 4. Description of Securities

Not applicable.

ITEM 5. Interests of Named Experts and Counsel

Not applicable.

ITEM 6. Indemnification of Directors and Officers

The Cayman Companies Act (as amended) does not limit the extent to which a company's articles of association may provide for indemnification of officers and directors, except to the extent any such provision may be held by the Cayman Islands courts to be contrary to public policy, such as to provide indemnification against dishonesty, willful default or fraud. Our articles of association provide that we shall indemnify our officers and directors against any liability incurred by him as a result of any act or failure to act in carrying out his functions other than such liability (if any) that he may incur by his own actual fraud or willful default. This standard of conduct is generally the same as permitted under the Delaware General Corporation Law for a Delaware corporation. In addition, we intend to enter into indemnification agreements with our directors and executive officers that will provide such persons with additional indemnification beyond that provided in our articles of association.

In addition, the Registrant has entered, and intends to continue to enter into, indemnification agreements, substantially in the form filed as Exhibit 10.1 to the Registrant's Registration Statement on Form F-1 (Registration No. 333-242283), as amended, initially filed with the Commission on August 21, 2020, with its directors and executive officers to indemnify such persons in connection with claims made by reason of their being such a director or executive officer.

The registrant currently carries liability insurance for its directors and executive officers.

ITEM 7. Exemption from Registration Claimed

Not applicable.

ITEM 8. Exhibits

The Exhibits listed on the accompanying Exhibit Index are filed as a part of, or incorporated by reference into, this Registration Statement. (See Exhibit Index below).

ITEM 9. Undertakings

(a) The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement;
 - (i) to include any prospectus required by Section 10(a)(3) of the Securities Act;
 - (ii) to reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this Registration Statement; and
 - (iii) to include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-3, Form S-8 or Form F-3, and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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- (b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

EXHIBIT INDEX

<u>EXHIBIT NUMBER</u>	<u>DESCRIPTION</u>
4.1	<u>Form of Seventh Amended and Restated Memorandum and Articles of Association of the Registrant (incorporated by reference to Exhibit 3.2 of Amendment No. 2 to the Registration Statement on Form F-1 (Registration No. 333- 242283) filed with the Securities and Exchange Commission on August 21, 2020)</u>
5.1	<u>Opinion of Harney Westwood & Riegels</u>
10.1	<u>Amended and Restated 2019 Share Incentive Plan (incorporated by reference to Exhibit 10.17 of Amendment No. 2 of the Registration Statement on Form F-1 (Registration No. 333- 242283) filed with the Securities and Exchange Commission on August 21, 2020)</u>
23.1	<u>Consent of Harney Westwood & Riegels (included in Exhibit 5.1)</u>
23.2	<u>Consent of PricewaterhouseCoopers Zhong Tian LLP</u>
24.1	<u>Powers of Attorney (included on the signature page in Part II of this Registration Statement)</u>

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in Guangdong, China on December 29, 2020.

XPENG INC.

By: /s/ Xiaopeng He

Name: Xiaopeng He

Title: Chairman and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below does hereby constitute and appoint Xiaopeng He, Heng Xia and Hongdi Brian Gu, and each of them singly, as his or her true and lawful attorneys-in-fact and agents, each with full power of substitution and re-substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, as amended, and all post-effective amendments thereto and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, may lawfully do or cause to be done by virtue hereof. Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Capacity	Date
<u>/s/ Xiaopeng He</u> Xiaopeng He	Chairman and Chief Executive Officer (principal executive officer)	December 29, 2020
<u>/s/ Heng Xia</u> Heng Xia	Director and President	December 29, 2020
<u>/s/ Hongdi Brian Gu</u> Hongdi Brian Gu	Vice Chairman and President	December 29, 2020
<u>/s/ Tao He</u> Tao He	Director and Senior Vice President	December 29, 2020
<u>/s/ Jun Chen</u> Jun Chen	Director	December 29, 2020
<u>/s/ Qin Liu</u> Qin Liu	Director	December 29, 2020
<u>/s/ Ji-Xun Foo</u> Ji-Xun Foo	Director	December 29, 2020
<u>/s/ Fei Yang</u> Fei Yang	Director	December 29, 2020
<u>/s/ Donghao Yang</u> Donghao Yang	Director	December 29, 2020
<u>/s/ Hsuehching Lu</u> Hsuehching Lu	Vice President of Finance and Accounting (principal financial and accounting officer)	December 29, 2020

SIGNATURE OF AUTHORIZED REPRESENTATIVE IN THE UNITED STATES

Pursuant to the Securities Act of 1933, as amended, the undersigned, the duly authorized representative in the United States of XPeng Inc. has signed this registration statement or amendment thereto in New York, New York on December 29, 2020.

US Authorized Representative
Cogency Global Inc.

By: /s/ Colleen A. De Vries

Name: Colleen A. De Vries

Title: Senior Vice President on behalf of Cogency
Global Inc.



Harney Westwood & Riegels
 3501 The Center
 99 Queen's Road Central
 Hong Kong
 Tel: +852 5806 7800
 Fax: +852 5806 7810

29 December 2020

051773.0008

XPeng Inc.
 4th Floor, Harbour Place, 103 South Church Street
 P.O. Box 10240, Grand Cayman KY1-1002
 Cayman Islands

Dear Sir or Madam

XPeng Inc. (the Company)

We are lawyers qualified to practise in the Cayman Islands and have acted as Cayman Islands legal advisers to the Company in connection with the Company's registration statement on Form S-8 filed with the Securities and Exchange Commission (the **Commission**) under the United States Securities Act of 1933, as amended (the **Securities Act**) (the **Registration Statement**), relating to the offering by the Company of American depository shares representing certain Class A ordinary shares of par value US\$0.00001 per share of the Company (the **Shares**).

We are furnishing this opinion as Exhibit 5.1 to the Registration Statement.

For the purposes of giving this opinion, we have examined the Corporate Documents (as defined in Schedule 1) and the Registration Statement. We have not examined any other documents, official or corporate records or external or internal registers and have not undertaken or been instructed to undertake any further enquiry or due diligence in relation to the transaction which is the subject of this opinion.

In giving this opinion we have relied upon the assumptions set out in Schedule 2 which we have not independently verified.

Based solely upon the foregoing examinations and assumptions and upon such searches as we have conducted and having regard to legal considerations which we deem relevant, and subject to the qualifications set out in Schedule 3, we are of the opinion that under the laws of the Cayman Islands:

- 1 **Existence and Good Standing.** The Company has been duly incorporated as an exempted company with limited liability and is validly existing and in good standing under the laws of the Cayman Islands.
- 2 **Authorised Share Capital.** Based on our review of the M&A (as defined in Schedule 1), the authorized share capital of the Company is US\$100,000 consisting of 10,000,000,000 shares comprising (i) 8,850,000,000 Class A Ordinary Shares of a par value of US\$0.00001 each, (ii) 750,000,000 Class B Ordinary Shares of a par value of US\$0.00001 each and (iii) 400,000,000 Class C Ordinary Shares of a par value of US\$0.00001 each.

Resident Partners: M Chu | JP Engwirda | A Johnstone
 P Kay | BJ King | MW Kwok | IN Mann | R Ng | ME Parrott
 ATC Ridgers | PJ Sephton | X Yin
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3 **Valid Issuance of Shares.** The issue and allotment of the Shares as contemplated by the Registration Statement have been duly authorised and, when allotted, issued and fully paid for in accordance with the Registration Statement, and when name of the shareholder is entered in the register of members of the Company, the Shares will be validly issued, allotted and fully paid and there will be no further obligation on the holder of any of the Shares to make any further payment to the Company in respect of such Shares.

This opinion is confined to the matters expressly opined on herein and given on the basis of the laws of the Cayman Islands as they are in force and applied by the Cayman Islands courts at the date of this opinion. We have made no investigation of, and express no opinion on, the laws of any other jurisdiction. Except as specifically stated herein, we express no opinion as to matters of fact.

In connection with the above opinion, we hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving such consent, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act, as amended, or the Rules and Regulations of the Commission thereunder.

This opinion is limited to the matters referred to herein and shall not be construed as extending to any other matter or document not referred to herein.

This opinion shall be construed in accordance with the laws of the Cayman Islands.

Yours faithfully

/s/ Harney Westwood & Riegels
Harney Westwood & Riegels

SCHEDULE 1

List of Documents and Records Examined

- 1 The certificate of incorporation of the Company dated 27 December 2018;
- 2 The seventh amended and restated memorandum and articles of association of the company as adopted by a special resolution passed on 20 August 2020 and effective immediately upon the completion of the Company's initial public offering (the **M&A**);
- 3 The register of members and register of directors of the Company provided to us on 28 December 2020;
- 4 A certificate of good standing dated 3 August 2020 in respect of the Company, issued by the Registrar of Companies in the Cayman Islands (the **Certificate of Good Standing**);
- 5 A copy of executed written resolutions of the directors of the Company dated 28 June 2020;
- 6 A copy of executed written resolutions of the directors of the Company dated 20 August 2020 and a copy of executed written resolutions of the members of the Company dated 20 August 2020; and
- 7 A copy of the minutes of a meeting of the directors of the Company dated 30 November 2020 (the **November Resolutions**, together with item 5 and 6 above, the **Resolutions**);

Copies of 1-7 above have been provided to us by the Company's registered office in the Cayman Islands (together the **Corporate Documents**)

- 8 The Registration Statement.

SCHEDULE 2

Assumptions

- 1 **Authenticity of Documents.** Copy documents or drafts of documents provided to us are true and complete copies of, or in the final forms of, the originals. All original Corporate Documents are authentic, all signatures, initials and seals are genuine, all copies of the Registration Statement are true and correct copies and the Registration Statement conform in every material respect to the latest drafts of the same produced to us and, where the Registration Statement has been provided to us in successive drafts marked-up to indicate changes to such documents, all such changes have been so indicated.
- 2 **Corporate Documents.** All matters required by law to be recorded in the Corporate Documents are so recorded, and all corporate minutes, resolutions, certificates, documents and records which we have reviewed are accurate and complete, and all facts expressed in or implied thereby are accurate and complete as at the date of the passing of the Resolutions.
- 3 **Constitutional Documents.** The M&A remain in full force and effect and are otherwise unamended.
- 4 **Conversion.** The conversion of any shares in the capital of the Company will be effected via legally available means under Cayman law.
- 5 **No Steps to Wind-up.** The directors and shareholders of the Company have not taken any steps to appoint a liquidator of the Company and no receiver has been appointed over any of the Company's property or assets.
- 6 **Resolutions.** The Resolutions (save for the November Resolutions) have been duly executed (and where by a corporate entity such execution has been duly authorised if so required) by or on behalf of each director, or by or on behalf of each shareholder in respect of the shareholder resolutions, and the signatures and initials thereon are those of a person or persons in whose name the Resolutions have been expressed to be signed. The November Resolutions were duly adopted at duly convened meetings of the board of directors and such meeting were held and conducted in accordance with the M&A. The Resolutions remain in full force and effect.
- 7 **Unseen Documents.** Save for the Corporate Documents provided to us there are no resolutions, agreements, documents or arrangements which materially affect, amend or vary the transactions envisaged in the Registration Statement. There is no contractual prohibition (other than as arising under Cayman Islands law) binding on the Company prohibiting it from issuing and allotting the Shares.

SCHEDULE 3

Qualifications

- 1 We express no opinion in relation to provisions making reference to foreign statutes in the Registration Statement.
- 2 Except as specifically stated herein, we make no comment with respect to any representations and warranties which may be made by or with respect to the Company in any of the documents or instruments cited in this opinion or otherwise with respect to the commercial terms of the transactions the subject of this opinion.
- 3 Our opinion as to good standing is based solely upon receipt of the Certificate of Good Standing. The Company shall be deemed to be in good standing under section 200A of the Companies Act (as amended) of the Cayman Islands (the **Companies Act**) on the date of issue of the certificate if all fees and penalties under the Companies Act have been paid and the Registrar of Companies in the Cayman Islands has no knowledge that the Company is in default under the Companies Act.
- 4 We have undertaken no enquiry and express no view as to the compliance of the Company with the International Tax Co-operation (Economic Substance) Act (2020 Revision).

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated June 2, 2020 relating to the financial statements, which appears in the Registration Statement on Form F-1 (No. 333-251164) of XPeng Inc.

/s/ PricewaterhouseCoopers Zhong Tian LLP

Guangzhou, the People's Republic of China
December 29, 2020