

ESTTA Tracking number: **ESTTA943947**

Filing date: **12/26/2018**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                        |  |
|------------------------|--|
| Proceeding             | 92068100   |
| Party                  | Plaintiff<br>Fuji Television Network, Inc.   |
| Correspondence Address | JENNIFER LEE TAYLOR<br>MORRISON & FOERSTER LLP<br>425 MARKET ST<br>SAN FRANCISCO, CA 94105-2482<br>UNITED STATES<br>TMDocket@mofo.com, JTaylor@mofo.com, droumiantseva@mofo.com, ggabriel@mofo.com<br>415-268-6538 |
| Submission             | Motion to Strike   |
| Filer's Name           | Jennifer Lee Taylor  |
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| Signature              | /Jennifer Lee Taylor/  |
| Date                   | 12/26/2018   |
| Attachments            | 2018-12-26 ALLEZ_CUISINE_Motion_to_Strike_Evidence_on_Reply.pdf(52648 bytes )  |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FUJI TELEVISION NETWORK, INC.,

Petitioner,

vs.

BRIAN PRINCE,

Respondent.

Cancellation No.: 92068100

U.S. Registration No.: 4,376,833

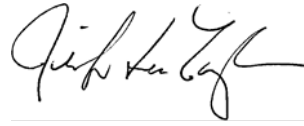
Mark: ALLEZ CUISINE

Registered: July 30, 2013

**PETITIONER'S MOTION TO STRIKE NEW EVIDENCE ON REPLY**

Respondent Brian Prince submitted the Declaration of Angie Lane with his Reply in Support of Motion for Summary Judgment, along with the Declaration of Kevin Keener in Support of Reply in Support of Motion for Summary Judgment and exhibits thereto. This constitutes improper submission of additional evidence on reply, and Petitioner Fuji Television Network, Inc. hereby moves to strike both declarations and exhibits as untimely and improperly filed. Controlling Board precedent dictates that evidence submitted with a reply brief must be stricken from the record. *See Omega SA (Omega AG) (Omega Ltd.) v. Alpha Phi Omega*, 118 U.S.P.Q. 2d 1289, 1300 n.18 (T.T.A.B. 2016) (“Applicant submitted additional evidence with its reply brief which purportedly demonstrates use of Applicant's ΑΦΩ mark on clothing items. This evidence is untimely submitted and has been given no consideration.”); *Kellogg Co. v. Pack’Em Enters. Inc.*, 14 U.S.P.Q. 2d 1545, 1549 n.9 (T.T.A.B. 1990), *aff’d*, 951 F.2d 330 (Fed. Cir. 1991) (evidence supporting a motion for summary judgment must be submitted with the motion).

Respectfully submitted,



Dated: December 26, 2018

By: \_\_\_\_\_

Jennifer Lee Taylor  
Attorney for Petitioner  
Fuji Television Network, Inc.

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**CERTIFICATE OF SERVICE**

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California, 94105. I am not a party to the within cause, and I am over the age of eighteen years.

I HEREBY CERTIFY that on December 26, 2018, I caused a true and correct copy of the foregoing

**PETITIONER’S MOTION TO STRIKE NEW EVIDENCE ON REPLY**

to be sent via e-mail to Respondent’s Attorney of Record:

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Dina Roumiantseva

*/s/Dina Roumiantseva*

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(typed)

\_\_\_\_\_  
(signature)

sf-3974839