

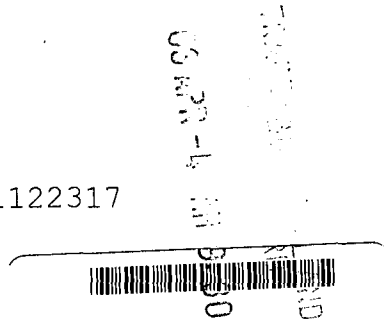


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PRAMIL S.R.L. (ESAPHARMA),]
Opposer,]
v.]
MITCHELL COSMETICS SARL,]
Applicant.]

Opposition # 91122317



03-26-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #73

OPPOSITION BY OPPOSER TO APPLICANT'S
MOTION TO STRIKE TESTIMONY AND EVIDENCE

Counsel for the Applicant, on or about March 20, 2003, filed a Motion to Strike Testimony and Evidence of Petitioner in this matter. To this Motion, Opposer objects.

This Motion is improper and not in accordance with the appropriate Rules of the Trademark Trial and Appeal Board. Objections to testimony depositions on grounds other than the ground of untimeliness, or the ground of improper or inadequate notice, generally should not be raised by motion to strike. See TBMP §524.03.

Objections to the admissibility of any evidence must be raised at the time specified in the Federal Rules and not by a Motion to Strike. 37 CFR §2.123(k). Such objections are never considered until the final hearing of the case before the

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Board and are not considered in motions to strike. See *Health-Tex Inc. v. Okabashi (U.S.) Corp.*, 18 USPQ2d 1409 (TTAB 1990).

For the reasons advanced above, the Motion of Applicant should be denied.

Respectfully submitted,

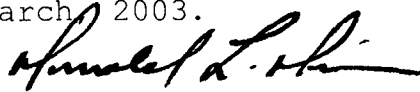
March 26, 2003



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CERTIFICATE OF SERVICE

This is to certify that a copy of the aforesaid Opposer's Opposition to Applicant's Motion to Strike Testimony and Evidence, was served upon counsel for Applicant, David M. Rogero, Esq., by first class mail with proper postage affixed, addressed to counsel at 2600 Douglas Road, Suite 600, Coral Gables, FL 33134, this 26th day of March, 2003.



Donald L. Dennison