UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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wbc

Mailed: September 7, 2018

Opposition No. 91226322

Lupin Pharmaceuticals, Inc.

v.

Ampel, LLC

Wendy Boldt Cohen, Interlocutory Attorney:

Applicant's motion to strike portions of Opposer's trial testimony of Dave Berthold and certain other documents is noted. *See* 36 TTABVUE. It is the policy of the Board not to read trial testimony or examine other trial evidence prior to final decision. *See* TBMP §§ 502.01 and 532 (June 2018). Thus, if a motion to strike cannot be resolved simply by reviewing the face of the notice of reliance and attached documents, but instead would require a review of testimony or other evidence, determination of the motion will be deferred by the Board until final hearing. *See Kate Spade LLC v. Thatch, LLC,* 126 USPQ2d 1098, 1106 (TTAB 2018); *ProMark Brands Inc. v. GFA Brands, Inc.*, 114 USPQ2d 1232, 1239 n.32 (TTAB 2015); *M-Tek Inc. v. CVP Systems Inc.*, 17 USPQ2d 1070, 1073 n.2 (TTAB 1990).

In view thereof and because review of the testimony and documents is required to determine the motion, determination of the motion is deferred by the Board until final hearing.