

ESTTA Tracking number: **ESTTA994111**

Filing date: **08/12/2019**

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

Proceeding	91238706
Party	Plaintiff Xiang Yin He Chang Tuan Inc.
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Date	08/12/2019
Attachments	Reply in support of motion to strike.pdf(76116 bytes)

IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposition No. 91238706
Application Serial Nos. 87566170 and 87538374

Xiang Yin He Chang Tuan Inc.
Opposer

Vs.

Edison Chinese Chorus Inc.
Applicant

**Opposer's Reply Brief In Support Of Its Motion To Strike Applicant's
New Evidence Set Forth In Its Reply Brief**

Comes now the Opposer, Xiang Yin He Chang Tuan Inc. ("Opposer" or "Xiang Yin"), by counsel, H. Danny Kao, to hereby submit the following reply brief in support of Opposer's motion to strike the new evidence, assertions and statements of fact, and arguments, which Applicant relies on in its August 6, 2019 Reply Brief in support of Applicant's Motion For Summary Judgment. Applicant served its "Response to Opposer's Motion to Strike Applicant's New Evidence" on August 9, 2019 ("Applicant's Opposition").

Applicant's Opposition admitted that each piece of new evidence and the related assertions, statements of fact, and arguments, identified by Opposer and cited in Opposer's motion to strike, was available to Applicant and it could have been but was not cited by Applicant in Applicant's original summary judgment motion. The new evidence and such cited for the first time in a reply brief was thus undeniably new to the summary judgment motion

process, establishing that Opposer has been denied any right to defend itself against Applicant's new evidence, assertions and statements of fact, and arguments. Applicant's withholding from an original summary judgment motion but then citing to new evidence and such in a reply brief was extensive, making up a large portion of Applicant's "Reply Brief."¹

In light of the above, Applicant's strategic withholding of such evidence and argument is extremely prejudicial to Opposer. A correct and orderly summary judgment motion process has been thwarted by Applicant and Opposer's motion to strike should be granted.

Respectfully submitted,
By: /s/ H. Danny Kao
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Attorney for the Opposer
Dated: August 12, 2019

Certificate of Service

I hereby certify that a true and complete copy of the foregoing reply brief has been served on Cheng Q. Song, Counsel for the Applicant, by forwarding said copy on August 12, 2019, via email and electronic docket filing in this opposition to chengqsong@gmail.com.

Signature: /s/H. Danny Kao

Date: August 12, 2019

¹ On August 9, 2019, Applicant also submitted a sur-reply concerning Opposer's cross-motion for summary judgment. Such a sur-reply is not permitted by the rules and it should also be stricken as part of Applicant's repeated attempts to thwart the rules and have summary judgment issues unfairly decided.