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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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Attachments	4 28 Reply re Motion to Strike.pdf(147517 bytes) Exhibit D.pdf(431652 bytes) Exhibit E.pdf(178336 bytes) Exhibit F.pdf(178204 bytes) Exhibit G.pdf(283042 bytes)

April 28, 2021

Xiang Yin He Chang Tuan Inc.,
Opposer

v.
Edison Chinese Chorus Inc.,
Applicant

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

**OPPOSER’S REPLY IN SUPPORT OF ITS MOTION FOR JUDGMENT AND
ALTERNATIVE MOTION TO STRIKE APPLICANT’S TRIAL MATERIALS**

Opposer’s motion established that Applicant withheld all or a portion of 23 of its 44 Trial Exhibits (and therefore also the related Trial Testimony concerning those exhibits) and five of its 12 Trial Witnesses from any of its discovery responses, springing them on Opposer and attempting to inject them into this proceeding on the last day of Applicant’s Trial Period. Applicant does not dispute and even concurs that this withheld evidence goes to the heart of this proceeding because it concerns the origin, creation, control and use of the trademarks and corporations in issue. Applicant also does not dispute that this evidence was neither provided in Applicant’s initial disclosures nor anywhere else until March 28, 2021. Applicant also does not dispute that Opposer’s multiple discovery requests (provided in the exhibits to Applicant’s brief) required the disclosure of this information but that it was withheld by Applicant. Applicant does not contend that it misunderstood the rules. TBMP § 527.01(e); *Panda Travel, Inc. v. Resort Option Enters., Inc.*, 94 U.S.P.Q.2d 1789 (T.T.A.B. 2009) (documents produced after the start of trial stricken).

Instead, Applicant asserts six excuses for not producing the new 23 Trial Exhibits (or portions thereof), related trial testimony, and the five new Trial Witnesses. Each of the six excuses fails as a matter of fact and law.

1st Excuse: Applicant Allegedly Made New, Untimely Claims. Applicant contends (pp. 3, 6-9) that Opposer created new factual assertions concerning (a) control of the trademarks and corporations and (b) abandonment of use of one of the trademarks, which then Applicant responded to by producing

withheld exhibits ATE 14, 23-33, 35-36, 40 and 43. Applicant's contention is vague, unsupported and false.

Instead, each of these particular factual assertions concerning control of the trademarks and corporations was laid out in great detail by Opposer in, for example, Opposer's responses to Applicant's first interrogatories of June 10, 2019 (Exhibit D hereto, Reply 1) and Opposer's summary judgment opposition of April 28, 2020 (e.g., OTE P ¶¶ 5-21; *see also* OTE AA ¶¶ 1-34). The Applicant's abandonment of use of one of the marks was discovered at the October 14, 2020 deposition of Applicant's Mr. Fan (OTE U) from Applicant's recent document production and explained in detail in Opposer's October 30, 2020 amended discovery responses one week later (OTE AA ¶¶ 39-40), all within the discovery period. Control of the trademarks and the corporations and the use of the trademarks has always been the central issue in this proceeding and thus these exhibits and the related testimony should be struck from the record as untimely and prejudicial.

In addition, Applicant made false and misleading arguments in the table on pages 4-6 of its brief. Concerning this particular excuse, Applicant falsely implied in the fifth row from the bottom of the table on page 6 that Opposer made new arguments in Opposer's January 27, 2021 Notice of Reliance. The Opposer's Notice of Reliance explicitly repeated the arguments made throughout Opposer's earlier and timely submissions that were summarized in Opposer's First Amendment To Opposer's Discovery Responses (OTE AA ¶¶ 1-34, 39-40), which was served before the close of discovery. Thus, the abandonment argument addressed in this fifth box was not first made in the Notice of Reliance as Applicant falsely contends, but instead was made as soon as it became apparent at the deposition of Mr. Fan and asserted a week later in OTE AA ¶¶ 39-40 during the discovery period, as also explained above.

Applicant also makes a false argument in the fourth row from the bottom in the table on pages 4-6 of its brief concerning Applicant's and Mr. Zhang's lack of expertise. The false argument is repeated concerning ATE 24 on pages 8-9 of its brief. A date of 1/28/2021 is asserted by Applicant on page 6 in this regard that is false. The allegation in issue was made throughout discovery including in the Opposer's responses to Applicant's first interrogatories of June 10, 2019 (Exhibit D hereto, Reply 1); the April 29,

2020 summary judgment opposition brief of Opposer (p. 15, 2nd bullet point); the expert declaration of Mr. Bin Lv dated September 30, 2020 (OTE Q, ¶¶ 23-25 (no one at Applicant, which would include Mr. Zhang, has expertise)) and in Opposer's amended discovery responses on October 30, 2020 (OTE AA, ¶¶ 29-40 (specifically identifying Mr. Zhang as lacking expertise)).

Applicant's third row from the bottom relates to a cross examination question by Applicant, so we fail to see any relevance to this motion of the questions and answers Applicant elicited. Likewise, the second and first rows from the bottom relate to assertions made in Opposer's motion concerning (a) Applicant's attempt to steal the trademarks that is the subject of this entire opposition, including the subject matter of Mr. Fan's discovery deposition as cited in Opposer's motion (p. 9 n.4), and (b) a discussion of new withheld evidence concerning a fake check proffered by Applicant that is one of the new exhibits (ATE 17 and 23) that should be struck from the record. Applicant's excuse based on alleged new claims is false. No new arguments were advanced by Opposer. They were already provided during the discovery period. E.g., OTE AA.

2nd Excuse: Portions Of The Exhibits Were Allegedly Produced. Applicant contends (p. 3, 8) that Opposer is not prejudiced because Applicant produced portions of ATE 21 (Applicant admits only the appendix was produced but that the bulk of the document including an email and letter concerning control of the trademarks was withheld), ATE 22 (Applicant admits different financial records concerning control of the choirs were produced than this exhibit contains), and ATE 23 (Applicant admits that the email was received by it on November 20, 2020 but not produced until the last day of its Trial Period on March 28, 2021). Applicant withheld the bulk and substantive part of the relevant portions of these exhibits until March 28, 2021 and therefore its arguments lack merit. These exhibits and the related testimony should be stricken as untimely and prejudicial.

3rd Excuse: The Unsupported Allegation That Opposer Or Mr. Bin Lv Already Had A Copy. Applicant contends (pp. 3, 9-10) without support that Opposer or Mr. Bin Lv already had a copy of ATE 34 (an email concerning control of the trademarks), ATE 38 (a complaint concerning control of the choirs) and ATE 42 (an original letter from Mr. Bin Lv) from several years ago. He did not. Applicant

participated in depositions of several witnesses, including two depositions of Mr. Bin Lv, but never established that such copies existed. Even if copies existed, however, this still is not a valid excuse. These exhibits and the related testimony should be stricken as untimely and prejudicial.

Applicant also attempted to inject into the proceeding new exhibit ATE 14 (Opposer's incorporation documentation) on March 28, 2021 without ever having produced it or even requesting it in discovery. Applicant's attempted justification, that it produced its own incorporation documentation, makes no sense as an excuse. This exhibit and the related testimony should also be stricken as untimely and prejudicial.

4th Excuse: Translations Allegedly Are Not Necessary And This Opposition Can Be Conducted Fairly In Chinese. Applicant contends (pp. 7-8) that translations of Chinese language documents including ATE 16, 18, 24, 27-31, 39, and 42-43 were not necessary and did not need to be timely provided. Applicant proffers no justification or excuse as to why that is so. Obviously, the untimely production of a translation, a complete translation, or a certified translation, is highly prejudicial since Opposer may not know what the document means or what Applicant contends the document means. In addition, the attorney that created a first draft of this paper and often of other papers in this proceeding has no such translation skills. Furthermore, the parties do not agree on many translations, as shown by the deposition transcripts (e.g., OTE V, p. 8). Moreover, the entire foreign language document must be translated to determine its content and meaning and, certainly, as an evidentiary matter, the translation must be certified and complete. There was no agreement by the parties or by Opposer in particular as to any waiver of a requirement to provide complete, certified translations. Any exhibits containing belated certified translations, incomplete translations or lack of a translation, are untimely and prejudicial to Opposer, and any such late translations, partial translations, uncertified translations or Chinese-language only exhibits of Applicant should be struck from the record along with the related testimony.

5th Excuse: Opposer Submitted Its Own Trial Testimony And Allegedly Did Not Compel Third Parties To Appear For Applicant. Applicant (pp. 3, 11-12) advances a false and irrelevant argument that "Opposer refused to" make witnesses available to be deposed by Applicant under

Applicant's notice of deposition. As soon as Opposer received Applicant's notice of deposition, it informed Applicant (of what Applicant already knew) that these witnesses, including Ms. Tan, were not officers or members of Opposer's chorus subject to Opposer's control or even persuasion. These were third party witnesses whose testimony Applicant was procedurally required to seek by subpoena and which Opposer could not compel to appear. Applicant never sought their depositions by subpoena during discovery or at trial. The parties even stipulated to these facts, Exhibit E (¶ 7g) hereto, rendering Applicant's argument deficient of good faith.

In contrast, despite Applicant's representations, Opposer relied on three trial witnesses (OTE X, Y and Z), each of which was identified as knowledgeable throughout discovery, including at the discovery deposition of Mr. Bin Lv taken by Applicant on October 26, 2020 (OTE Q p. 35). *See also* OTE AA ¶ 11 (Opposer's discovery response identifying all of Opposer's proposed non-Applicant witnesses, rendering Applicant's argument concerning "7 new witnesses out of 10" blatantly false). Applicant made no disclosure before its Trial Period of five of its 12 trial witnesses and therefore Applicant's "goose-gander rule" does not apply.

Particularly egregious here, however, is Applicant's previous representation that Mr. Lei, one of the five surprise witnesses, who is never identified in Applicant's initial disclosure (Exhibit F hereto) or other discovery responses, could not be found for a discovery deposition as set forth in the parties' stipulation (Exhibit E (¶ 3) hereto) but he then shows up as Applicant's trial witness. Such gamesmanship is intentionally extremely prejudicial and antithetical to the orderly process this proceeding is required to take.

6th Excuse: Opposer Has The Right To Cross-Examination Which Allegedly Should Suffice.

Applicant contends that Opposer is not prejudiced because it can cross-examine the 12 Trial Witnesses (including the five new ones) on the new exhibits and testimony as part of Opposer's rebuttal period. There was no time to do so during Applicant's Trial Period. Importantly, this excuse throws the trial process on its head and denies Opposer due process. The remedy here cannot be that we start the case over with five new, surprise witnesses and 23 new exhibits and related testimony from another seven

witnesses on subject matter that was never seen before. Opposer already took its positions on this case and should not be forced to start from the beginning again, facing new evidence on the origin, creation, control and use of the trademarks and corporations in issue without the benefit of discovery. The prejudice caused by Applicant cannot be remedied at this point. Indeed, having been proven to withhold so much material evidence, it strains credulity to believe that Applicant only withheld information from 23 exhibits and five witnesses that helped *its* case. The fairness and justness of this proceeding has been irreversibly and intentionally tainted by Applicant.

The Applicant's Excuses Do Not Fly

All six of Applicant's excuses are based on false assertions and they fail as a matter of fact and law as shown above. Opposer's motion should be granted. *See, e.g., Spier Wines (PTY) Ltd., v. Shepher*, 105 U.S.P.Q.2d 1239, 1242, 1246 (TTAB 2012 (party that fails to provide information via disclosure or discovery or supplements may be precluded from using that information or witness at trial unless failure was substantially justified or harmless; party's failure to identify witness prior to pretrial disclosure was neither harmless nor substantially justified); *Great Seats Inc. v. Great Seats Ltd.*, 100 U.S.P.Q.2d 1323, 1327-28 (TTAB 2011) (party's identification of 26 additional witnesses for the first time in its pretrial disclosures was neither harmless nor substantially justified). Here, Applicant refused to produce the evidence during discovery -- with multiple objections -- that it later proffered on March 28, 2021 even though it was explicitly and properly requested by Opposer. *See e.g.,* TBMP § 527.01(e) ("A party that responds to a request for discovery by indicating that it does not have the information sought, or by stating objections thereto, may be barred by its own action from later introducing the information sought in the request as part of its evidence on the case."). Opposer's discovery requests that sought the information Applicant withheld were submitted with Applicant's brief, in the first part of Applicant's exhibits. *See also*, Exhibit F hereto (Applicant's initial disclosure contending what is relevant).

Applicant's requests include:

- Interrogatories 7, 8 and 9 and Document Requests 9, 25, and 29-31 (seeking evidence concerning the origins, meetings, and ownership of the marks and knowledgeable witnesses (ATE 15, 16, 18 and 24-33; the five new witnesses));
- Interrogatories 10, 12 and 19 and Document Requests 6, 7, 14 and 41 (history and communications re uses of the marks, including, explicitly requested performance brochures and newspaper articles (ATE 18, 24-33), advertisements, songs (ATE 24), photos (ATE 43), and knowledgeable witnesses (ATE 14-16, 18, 21-36, 38, 40, 42, 43; the five new witnesses));
- Interrogatory 13 and Document Request 24 (seeking evidence of control and supporting documents (ATE 14-16, 18, 21-36, 38, 40, 42, 43));
- Document Request 15 (seeking any charitable grant documents (ATE 17, 23)); and
- Document Request 17, 19, 20 and 44 (seeking any compensation documents (ATE 19, 22)).

In addition, Opposer pointed out that at least 11 other Applicant Trial Exhibits were missing portions or amendments and thus were incomplete and inadmissible. These included ATE 5, 9-12 and 39-41. These were not addressed by Applicant.

Applicant Cannot Advance A New First Use Date At This Juncture

Consistent with its hide the ball strategy, Applicant attempts to assert a new and earlier first use date (February 2, 2001, a date even before Applicant's corporate entity was formed on April 1, 2002) than it ever asserted before in both of Applicant's registration applications (i.e., October 2, 2004). OTE N, R and S. The rules do not allow them to unilaterally make such a remarkable change at this point and Applicant's assertions should be struck from the record. *See, e.g.*, TBMP 514.01; 37 C.F.R. § 2.173.

Applicant's Trial Testimony Is Also Poisoned By Applicant's Withholding Stratagems

Applicant's Trial Declarations are inextricably linked to the withheld Trial Exhibits and the five new Trial Witnesses. The declarations and exhibits all incorporate each other and their subject matter. They must all fall together.

Applicant's Support For Its Notice Of Reliance Is Otherwise Defective

Applicant did not substantively counter the demonstration in Opposer's motion (pp. 7-8) that Applicant's Notice of Reliance failed to meaningfully associate the Applicant's proffered materials with one or more issues in the case. *E.g.*, 37 C.F.R. § 2.122(g). The prejudice of this missing information compounds the prejudice caused by withholding the 23 Trial Exhibits, five Trial Witnesses and related testimony in the first place, and thus permitting Applicant to attempt to cure these particular defects that fit into a pattern of abuse cannot suffice to remedy the prejudice to Opposer.

Applicant's Page Limit Argument Should Be Rejected

Applicant contends (pp. 1-2) that Opposer's nine-page motion exceeded the page limitation because of Opposer's Exhibits A and B. Exhibits A and B are the evidentiary exhibits to Opposer's brief at final hearing. 37 CFR § 2.128 states that "[e]videntiary objections that may properly be raised in a party's brief on the case may instead be raised in an appendix or by way of a separate statement of objections. The appendix or separate statement is not included within the page limit." We note that it is Applicant that blew this case up with 23 new exhibits and five new witnesses and, furthermore, that Applicant was able to oppose the motion in just 15 pages out of the allotted 25 page limit within the 20 day period to respond, without, apparently, needing an extension of time to reply.

Nevertheless, these exhibits are not critical or even necessary for Opposer's motion, as the Opposer's arguments are each contained in the body of the motion. They are simply an alternative presentation with the arguments collected on an exhibit by exhibit (or declaration by declaration) basis. If the Board finds that these exhibits are not helpful or otherwise permitted, then Opposer respectfully withdraws them. If instead the Board finds that Opposer has indeed exceeded the page limitation, then Opposer will respectfully seek to resubmit the motion reformatted and/or without the exhibits.

We also note that Applicant's argument further lacks merit and exalts form over substance because if Opposer reformatted the motion papers that Applicant objects to and used a permitted 11 point font, they would be 25 pages or less. Exhibit G hereto. Ironically, Applicant's brief apparently did not strictly conform to the required format, using fonts that were too small for footnotes (less than 11 points) and a multi-page table with substantive argument (pp. 4-6) that is not double spaced.

Applicant Caused Extreme Harm To Opposer And This Proceeding

Applicant's positions mark a lack of fairness and a refusal to meet its discovery and disclosure obligations. Applicant produced very few documents in this case and at every stage caused the maximum harm it could with abusive motion practice and bizarre discovery responses (e.g., Applicant's exhibits to its brief). It must be assumed that Applicant also withheld *all* discovery that it believed hurt its case. The sheer number of false assertions in Applicant's opposition to this motion, which lacked justification and excuse, many of which are proved wrong by Opposer's amended discovery responses (OTE AA) that were served before the end of discovery, alone compels granting judgment in Opposer's favor.

The harm from withholding and then springing on Opposer until now such a large number of documents and witnesses going to the heart of the issues of the origin, creation, control and use of the trademarks in issue is extreme. This opposition proceeding was first filed on January 3, 2018 because Applicant was using Opposer's trademarks and causing confusion in the public for its competing choir and since that date Applicant has only sought delay, extra expense and prejudice with motion after motion and an apparent lack of good faith in conducting discovery. At the Fan deposition (Applicant's President who supervised the filing of Applicant's registration applications), we learned that this all was no innocent mistake and Applicant sought to steal the trademarks from Opposer when it learned Opposer had not filed a registration for them. Opposer motion, p. 9 n.4. The remedy granted here should not be to virtually start the proceeding over with Applicant's new evidence but instead grant judgment in Opposer's favor.

Conclusion

For the foregoing reasons, Opposer respectfully requests that judgment be granted in its favor, or, in the alternative, Applicant's Trial Exhibits, Trial Declarations and Notice of Reliance be struck from the record. Opposer had already taken its positions in this proceeding and submitted its trial evidence without the benefit of at least half of Applicant's required discovery disclosures in terms of exhibits, translations and witnesses. Applicant's willful withholding stratagems to attempt to prejudice Opposer should not succeed here.

Date: April 28, 2021

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Certificate of Service

I hereby certify that a true and complete copy of the foregoing OPPOSER'S REPLY IN SUPPORT OF ITS MOTION FOR JUDGMENT AND ALTERNATIVE MOTION TO STRIKE APPLICANT'S TRIAL MATERIALS has been served on Cheng Q. Song, Counsel for the Applicant, by forwarding said copy on April 28, 2021, via email to chengqsong@gmail.com.

Signature: /s/H. Danny Kao

Date: April 28, 2021

EXHIBIT D TO OPPOSER'S REPLY

IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE
Before the 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

v.

Edison Chinese Chorus Inc.
Applicant

Opposer's Replies to Applicant's First Set of Interrogatories to Opposer

Opposer, Xiang Yin He Chang Tuan Inc., hereby submits its Replies to Applicant's First Set of Interrogatories. Opposer reserves the right to supplement and/or amend these Replies as appropriate during course of this action.

General Objections: Opposer objects to these Interrogatories to the extent they go beyond what is required by the Federal Rules of Civil Procedure and any other applicable rules. Opposer further objects to these Interrogatories to the extent they call for discovery immune from production, including attorney client privileged and work product immune information. Opposer further Interrogatories to these requests to the extent they call for information that is in the possession of Applicant or that is publicly obtainable by Applicant and thus less burdensome for Applicant to obtain than for Opposer.

Interrogatory No. 1: Identify and describe when Opposer was incorporated and when it started to use Trademark?

Reply No. 1: Opposer was formally incorporated in 2017. Opposer continued to use the Trademark from 2017 to the present without abandoning it. Ms. Tan created the Trademark and owned, licensed, and otherwise granted rights to use the Trademark to members of Opposer (e.g., Mr. Wen and Mr. Lv, addressed further below) and the related entities in which they belonged from 2001 until she assigned it to Opposer in February of 2018. Ms. Tan used the Trademark with these members and their related entities continuously and without abandonment, exerting control over the use of the mark, since she created it in 2001 and until she assigned it to Opposer.

In particular, the history of the Trademark inures to the benefit of Ms. Tan and Opposer. Ms. Tan created and began to use the Trademark in 2001. There was a selection of the Trademark on 2/3/2001 by a vocal group (and specifically by Mr. Wen and Mr. Lv) but not by the entity currently known as Applicant. Applicant did not exist at the time the Trademark was selected on 2/3/2001. An entity, which had no Bylaws, written or otherwise, that later formed the origin of Applicant and which included members of Opposer was created and was registered as an entity

on 4/1/2002. When the Trademark was selected on 2/3/2001 and first used at that time, Mr. Lv, the music teacher and Mr. Wen, Ms. Tan's husband, who together led that entity, asked Ms. Tan whether they could use the Trademark. Ms. Tan granted them a license and otherwise granted them rights to use the Trademark specifically because the Trademark truthfully designated the origin of the chorus and its hometown sound. From the date of its creation until it was assigned to Opposer, Ms. Tan monitored the use and quality associated with the Trademark. The Applicant after 2017 did not have the skill or means to maintain the quality associated with the Trademark or truthfully use the Trademark to designate origin, but the Opposer did.

Ms. Tan used the Trademark continuously and without abandonment from 2001 to the present by granting rights to it to (a) the Edison Chinese School Vocal Group, which included members of Opposer, from 2001 to 2002, in the form of a license and otherwise grant of rights to use; (b) an entity that later became Applicant, which included members of Opposer, from 2002 to 2017, in the form of a license and otherwise grant of rights to use; and (c) then to the Opposer from 2017 to the present, in the form of a license and otherwise grant of rights to use, and then later, in February of 2018, in the form of an assignment. At all times Ms. Tan has exerted control over the Trademark's use in terms of quality and as a designation or origin in part through her husband, Mr. Wen, and Mr. Lv, who were leaders of all of the chorus groups of which they were members, including from 2001 to the present.

Mr. Jianshe Lu, also known as Mr. Bin Lv, was the teacher and leader of a vocal group (Edison Chinese School Vocal Group) since 1999. It was one of his students who proposed forming a chorus group in early 2001 and then they went about naming it. That group later formed the origin of the Edison Chinese Chorus Group, which registered as an entity on 4/1/2002. At that time, in order for the chorus group to apply for grants, Mr. Lv was listed as the music director because of his qualifications. Mr. Lv was never a "paid" music director, and he neither received a salary nor had any employment contract. Mr. Lv continuously led the chorus groups in all musical performances and otherwise in which he was the leader from before 2001 until the present.

Ms. Tan contends and recognized when she created the Trademark that Mr. Lv was and is a talented, knowledgeable and famous Chinese national music expert. Mr. Lv was also the first deputy secretary of the National vocal music society in China. His qualifications and ability to lead choral groups to relate to and otherwise promote Chinese culture and customs to the public in the United States were and are unmatched. The Trademark, including the name "Xiang Yin" means, as is referred to by Ms. Tan, a particular "hometown sound," and it was created for someone like Mr. Lv to use because the resulting choral sound is high-quality level art that can truthfully represent the name of their hometown sound. Ms. Tan contends that the Trademark only can be correctly used with groups in which he is a member since others, lacking his skill, knowledge and origin, can never truthfully designate the origin as the Trademark communicates.

The Applicant fails to acknowledge that the Trademark in issue has a unique meaning and designation of origin that is very particular. It refers to a hometown sound from China that requires skill and knowledge to represent. Applicant lacks that skill and knowledge and therefore any use of the Trademark by Applicant after 2017 is a willfully false designation of origin.

Mr. Wen, husband of Ms. Tan, was learning chorus from Mr. Lv before the entity that formed the origin of Applicant was created on 4/1/2002. Mr. Wen was listed as one of the three initial Board of Trustees on the corporation formation application on 4/1/2002 of that entity. Mr. Wen was president of the Applicant, the Edison Chinese Chorus Group, from 2009 to 2011. Mr. Wen and Mr. Lv were leaders of the chorus groups from 2001 until the present. Mr. Wen left the Edison Chinese Chorus Group in 2017.

At the time of creation and first use of the Trademark on 2/3/2001, there were no Bylaws in place, written or otherwise, by the entity that first used it under a license from Ms. Tan. The entity known as Applicant as it is now constituted did not exist. The Bylaws of Applicant were adopted on 10/1/2001 and Applicant did not exist on 2/3/2001. An entity that later became Applicant and which included members of Opposer was created and was registered on 4/1/2002.

Any use of the Trademark by Applicant was by license and otherwise grant of rights to use by Ms. Tan, who controlled the use in part at all times through Mr. Wen and Mr. Lv until the time in 2017 when they formed the entity that is Opposer. Thus, all of Applicant's use of the Trademark and the evidence relating to such inured to the benefit of Ms. Tan. After Opposer was formed, and Mr. Wen and Mr. Lv were no longer associated with Applicant, Applicant's use of the Trademark was and is willful, wrongful and without permission or license and is an infringement of the rights of Ms. Tan and Opposer. Applicant's use of the Trademark is a false designation of origin as it has nothing to do with Mr. Lv and the hometown sound the Trademark was designed and developed to designate.

The Trademark at issue in this action is described by Applicant as follows:

Description of Mark

The mark consists of the five Chinese characters that transliterate into "Xiang Yin He Chang Tuan" which means "chorus of homeland voices."

Opposer filed for a different servicemark in New Jersey that is not identical to the Trademark at issue in this action. The New Jersey mark is described below (see also ORD1, produced herewith):

Interrogatory No. 2: Identify and describe whether Opposer obtained an assignment of right from Ms. Tan when it applied for its trademark which is identical to Trademark in the State of New Jersey.

Reply No. 2: See Reply No. 1. Opposer had a license and otherwise grant of rights to use its servicemark from Ms. Tan. The Opposer's servicemark is not identical to the Trademark at issue in this action as shown and explained in Reply No. 1.

2. Name and Description of Mark (list the term that constitutes the mark and in the case of a design mark, also provide a *brief* description of its appearance)
XIANG YIN CHORUS XIANG YIN HE CHANG TUAN are in between the two circles. Underneath it, there are two lines of five Chinese characters.

Interrogatory No. 3: Identify what is the date of the first use of its trademark by Opposer as filed with the State of New Jersey.

Reply No. 3: See Reply Nos. 1 and 2 and ORD1.

Interrogatory No. 4: Identify and describe the President and members of “Xiang Yin Chorus (or Xiang Yin He Chang Tuan)” as listed in the program brochure dated 2/10/2002 as filed by Ms. Tan with the trademark application Nos: 87811480 and 87811521.

Reply No. 4: See Reply No. 1. Opposer refers to the program brochure cited in the Interrogatory. On 2/10/2002, the Xiang Yin Chorus was led by Mr. Lv. The chorus was just in its formation stage at that time. Mr. Lv organized and designed the performance on 2/10/2002. There were about 140 people who participated in what was universally regarded as a very successful performance. The community was reportedly amazed at the high standards and quality of the performance. After that performance, the group then registered the chorus as “Edison Chinese Chorus Inc.” on 4/1/2002.

Interrogatory No. 5: Identify and describe whether Opposer or its officers, and members ever challenged the use of Trademarks by Applicant from about 2001 to about 2017.

Reply No. 5: See Reply No. 1.

Interrogatory No. 6: Identify and describe with evidence that Ms. Tan used and continuously uses Trademark from about 2001 to about 2017.

Reply No. 6: See Reply No. 1.

Interrogatory No. 7: Identify and describe if Ms. Tan attended the brainstorming meeting on or about February 3, 2001 and the membership meeting when the use of Trademark was voted on or about February 17, 2001.

Reply No. 7: See Replies Nos. 1 and 9-12.

Interrogatory No. 8: Identify and describe the position of Ms. Tan within Applicant from about 2001 to about 2017.

Reply No. 8: See Reply No. 1. Applicant did not exist until an entity was formed from which Applicant originated on 4/1/2002. Ms. Tan held no formal position with the Applicant, except as the influential wife of founder Mr. Wen and as the friend and supporter of Mr. Lv, who were the leaders of the choral groups associated with what became Applicant as it is currently comprised.

Interrogatory No. 9: Identify and describe the position of Ms. Tan’s husband, Mr. Wen from about 2001 to about 2017 and whether and when he did not participate Applicant’s activities due to absence for any period from about 2001 to about 2017.

Reply No. 9: See Reply No. 1. Mr. Wen, husband of Ms. Tan, was a student of a vocal group (Edison Chinese School Vocal Group) led by Mr. Lv since 1999. Mr. Wen was the class leader in 2000. In 2001, and the students (members) desired to have a name for the chorus group. The name was proposed by Ms. Tan on 2/3/2001. The vocal group then used the Trademark name since 2001 to 2002 until the entity that was formed and originated what became Applicant was formed on 4/1/2002. Mr. Wen was with this chorus (if it is considered a single chorus or series of choruses) since it was incorporated until 2017 when he left. Mr. Wen was the president of the Applicant's group from 2009 to 2011. Mr. Wen was also one of the three initial Board of Trustees of the formation of "Edison Chinese Chorus Inc." There were times when Mr. Wen went to out of state to work for approximately one year but Mr. Wen continued participating in the chorus practice and never left the chorus until 2017. Of the three initial Board of Trustees of Edison Chinese Chorus, Mr. Wen is the only one that remained in 2017. The other two had left the chorus a long time ago. Mr. Wen left the Edison Chinese Chorus Group with Mr. Lv and continues to participate in the chorus group led by Mr. Lv, Opposer, which maintains the highest standards and quality of performance, and the hometown sound, as required by Ms. Tan.

Interrogatory No. 10: Identify and describe the situation under which Mr. Wen was ousted by Applicant as claimed on page 2 of Motion to Amend Opposition by Opposer.

Reply No. 10: See Reply No. 1. The membership meeting on 2/25/2017 was not valid and it was against the Bylaws of the organization. It was not called according to the Applicant's Bylaws, which required a two-week notice and that the request for an amendment must be submitted to the executive committee. The notice of emergency membership meeting did not have the required two-week notice. The request for the amendment also was not submitted by a member to the executive committee. The anonymous request that was made also was not properly considered and was not an actionable request because requests had to be submitted by a name-member. Therefore, the meeting proposal provided by the Applicant in RI 3-2 was not in conformance with the rules and it had no effect according to the Bylaws. Thus, Mr. Lv was not properly or legally ousted, as shown by the above and our subsequent review and investigation as set forth herein. Mr. Wen was a member of the Applicant in 2017. "A member may leave or rejoin the chorus at will" according to the Bylaws. See RD1-1. Mr. Wen was not ousted by the Applicant.

Interrogatory No. 11: Identify and describe with evidence that Mr. Wen had an agreement, contract or license from his wife, Ms. Tan, to gain the right to use Trademark.

Reply No. 11: See Reply No. 1. Ms. Tan gave her permission, license and otherwise grant to use the Trademark to her husband, Mr. Wen, and Mr. Lv, to lead high-quality chorus performances, in which her husband was the founder and a leader of the chorus group.

Interrogatory No. 12: Identify and describe with evidence that Ms. Tan had an agreement, contract or license with Applicant for its right to use Trademark.

Reply No. 12: See Replies Nos. 1 and 11. Ms. Tan gave her permission, license and otherwise grant to use the Trademark to her husband, Mr. Wen, and Mr. Lv, to lead high-quality chorus

performances, in which her husband was the founder and leader of the chorus group. This was, in 2001, to the Edison Chinese School Vocal Group, and in 2002 to the Edison Chinese Chorus Group, until Mr. Lv and Mr. Wen left that group and the group could no longer use the Trademark as a truthful designation of origin, lacking Mr. Lv and his skills and leadership and the hometown sound.

Interrogatory No. 13: Identify and describe with evidence that Mr. Wen had an agreement, contract or license with Applicant for its right to use Trademark.

Reply No. 13: See Replies Nos. 1, 11 and 12.

Interrogatory No. 14: Identify and describe with evidence that Ms. Tan had an ownership of Trademark.

Reply No. 14: See Reply No. 1.

Interrogatory No. 15: Identify and describe whether Mr. Lu, aka Mr. Bin Lv, was a member of Applicant with voting right or he was a paid Music Director?

Reply No. 15: See Reply No. 1. Mr. Lv was never a “paid Music Director.”

Interrogatory No. 16: Identify and describe when Opposer started to use “金麒麟艺术团” as its trademark.

Reply No. 11: Opposer objects to this request because “Golden Phoenix Group” has nothing to do with the Trademark-in-issue.

Interrogatory No. 17: Identify and describe when Opposer started to use “乡音合唱团” as its trademark.

Reply No. 17: See Reply No. 1. Opposer continues using the Trademark since April 2017 to the present. For example, there were at least 15 public performances since April 2017 to June 2019 by Opposer using the Trademark. This included a large performance on 3/24/2018 at Princeton Meadow Church Great Auditorium.

Interrogatory No. 18: Identify and describe if Opposer still use “金麒麟艺术团” as its trademark now.

Reply No. 18: Opposer objects to this request because “Golden Phoenix Group” has nothing to do with the Trademark-in-issue.

Interrogatory No. 19: Identify and describe the members of “金麒麟艺术团” and the members of Opposer.

Reply No. 19: Opposer objects to this request because “Golden Phoenix Group” has nothing to do with the Trademark-in-issue.

Interrogatory No. 20: Identify and describe any communications from or to Opposer that relates to the ownership, licensing, use or application for the trademarks set forth in the application Nos. 87811480 and 87811521.

Reply No. 20: See Reply No. 1; Exhibit ORD2; Exhibit ORD3; and the USPTO website with documents relating to those applications.

Respectfully submitted,

Dated: June 10, 2019

By: /s/ H. Danny Kao
H. Danny Kao, Ph.D. J.D.
Attorney for the Opposer

Verification of objections:
By: /s/ H. Danny Kao
H. Danny Kao, Ph.D. J.D.
Attorney for the Opposer

Verification of factual statements:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on

/s/ Bin Lv
Bin Lv
President of Opposer
Xiang Yin He Chang Tuan Inc.

Date: June 10, 2019

Certificate of Service

I hereby certify that a true and complete copy of the foregoing Opposer's Replies to First Set of Interrogatories to Opposer has been served on Cheng Q. Song, Counsel for the Opposer, by forwarding said copy on June 10, 2019, visa email to chengqsong@gmail.com.

Signature: /s/ H. Danny Kao

EXHIBIT E TO OPPOSER'S REPLY BRIEF

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

October 7, 2020

Xiang Yin He Chang Tuan Inc.,
Opposer

v.

Edison Chinese Chorus Inc.,
AKA Xiang Yin Chorus or
Xiang Yin He Chang Tuan
Applicant

THE PARTIES' STIPULATION ON DISCOVERY AND EVIDENCE

Opposer Xiang Yin He Chang Tuan Inc. ("Xiang Yin" or "Opposer") and Applicant Edison Chinese Chorus Inc. ("Edison" or "Applicant") (Opposer and Applicant together are the "Parties") enters into this stipulation on discovery and evidence in this Opposition proceeding.

WHEREAS, the discovery period in this Opposition proceeding is currently scheduled to end on October 30, 2020;

WHEREAS, the Parties and likely witnesses are under particular constraints caused by a viral pandemic; and

WHEREAS, the Parties desire to comply with their discovery obligations and the requirements of this Opposition proceeding despite the constraints caused by the schedule in this Opposition proceeding and the viral pandemic.

IT IS HEREBY STIPULATED AND AGREED by the Parties the following:

1. Opposer has served a September 29, 2020 30(b)(6) deposition notice on Applicant for a deposition with identified topics for October 13, 2020 at 10:00 am. Applicant has identified the witness that will be prepared to testify on the topics and testify on Applicant's behalf as Mr. Da Ping Fan. To avoid a dispute and any delay, Applicant agrees that the witness shall be adequately prepared as required by Fed.R.Civ.P. 30(b)(6) with all of the information available to the Applicant concerning events and time periods set forth in the deposition notice topics even if Mr. Da Ping Fan was not associated with Applicant during those events and time periods.

2. Opposer has served a 30(b)(1) notice of deposition on Applicant for the depositions of Mr. Da Ping Fan (October 14, 2020 at 10:00 am), Mr. Ya Bin Lei (October 14, 2020 at 2:00 pm), Mr. Yu Liu (October 15, 2020 at 10:00 am) and Mr. Cun He Zang (October 15, 2020 at 2:00 pm) for depositions on October 14, 2020 through October 15, 2020.

3. Applicant represents that Mr. Ya Bin Lei is no longer associated with Applicant and Applicant has been unable to reach him. Based upon this representation, Opposer will withdraw the 30(b)(1) deposition notice of Mr. Ya Bin Lei.

4. Opposer will combine the 30(b)(6) deposition of Applicant with the 30(b)(1) deposition of Mr. Da Ping Fan on October 13, 2020, taking the 30(b)(6) deposition first. There will be no deposition scheduled on October 14, 2020.

5. Opposer agrees to perform a supplemental search for the production of any documents relating to "any receipts of the travel expenses ... of Mr. Jianshe Lu" from 2001 until 2017 and produce any such documents found and calculations for commuting mileages of Mr. Jianshe Lu from 2001 until 2017 by email to Applicant's attorney by October 11, 2020.

6. Applicant agrees to perform a search for emails under its custody and control that were requested by Opposer in its second request for documents in this Opposition proceeding and produce them by email to Opposer's attorney by October 11, 2020.

7. The Parties agree to conduct depositions in this Opposition proceeding as follows:

- a. Depositions of witnesses shall be taken remotely by telephone under oath and a qualified court reporter shall transcribe the depositions pursuant to the Opposer's notices as set forth above;
- b. Telephone access during the deposition shall be provided separately to the court reporter, any interpreter, the attorneys for both Parties, as well as the deposition witness;
- c. The Parties waive any requirement for the court reporter to be in the same room as the deponent because of the viral pandemic;
- d. Any exhibit used in depositions shall be provided in sealed envelopes and not examined by the defending attorney and witness unless and until requested to do so during the deposition by the attorney taking the deposition;
- e. Opposer shall provide a qualified Chinese/English interpreter for the deposition of Mr. Chun He Zhang;
- f. The deponent shall have the opportunity to review and make any corrections to their transcript within 30 days of their receipt of a copy of the transcript, which corrections, if any, shall be provided to counsel for both parties within that 30 days; and

- g. Applicant is not an agent for 30(b)(1) deponents and therefore, Applicant will try to coordinate the depositions only but expressly disclaims any responsibility either legally or financially associated with the depositions.

Date: October 7, 2020

By: /s/ H. Danny Kao
H. Danny Kao, PhD, Esq.
KAO & ASSOCIATES, PC
38-08 Union Street, STE 12E
Flushing, NY 11354
Tel: (516) 305-3717
Fax: (888) 315-4262
dkao@kaolawus.com

Attorneys for Opposer Xiang Yin He Chang Tuan Inc.

Date: October 8, 2020

By: /s/Cheng Song
Cheng Q. Song, PhD, Esq.
chengqsong@gmail.com

Attorneys for Applicant Edison Chinese Chorus Inc.

EXHIBIT F TO OPPOSER'S REPLY BRIEF

IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE
Before the 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

v.

Edison Chinese Chorus Inc.
Applicant

Applicant's Initial Disclosures

Applicant, Edison Chinese Chorus Inc., hereby submits its Initial Disclosures in accordance with TBMP 401.02 and Rule 26(a)(1) of the Federal Rules of Civil Procedure. Applicant reserves the right to supplement and/or amend these disclosures as appropriate during the course of this action. In the hereinbelow Initial Disclosures, Trademark means “乡音合唱团” and/or “乡音合唱团”, which were submitted in Application Serial Nos. 87566170 and 87538374.

(i) Name, address and telephone number of persons likely to have discoverable information (unless they will be used solely for impeachment).

a. Mr. Yuejin Li, residing at 8 East Drive, Edison, NJ 08820, phone number 732-669-9369, was a founding member and the first President of Applicant.

Subject of information: History of the founding of Edison Chinese Chorus Inc., including but not limited to the initial member meeting, membership composition, the selection of Trademark, the use and ownership of Trademark and the creation of bylaws, etc.

b. Mr. Jian Tang, residing at 9 Troy Street, Edison, NJ 08820, phone number 732-593-9292, was a founding member and the past President of Applicant.

Subject of information: History of the founding of Edison Chinese Chorus Inc, including but not limited to the hiring and firing the Music director, the duty of member, the Music director, and the membership meetings as well as the use and ownership of Trademark.

c. Mr. Min Li, residing at 132 Alfred Street, Edison, NJ 08820, phone number 732-910-6640, was a longtime member of Edison Chinese Chorus Inc.

Subject of information: History of Edison Chinese Chorus Inc. including but not limited to the hiring and firing the Music director, the duty of member, the Music director, and the membership meetings as well as the use and ownership of Trademark.

d. Mr. Daping Fan, residing at 49 Stratford Circle, Edison, NJ 08820, phone number 908-217-2428, was a longtime member and the current President of Applicant.

Subject of information: History of Edison Chinese Chorus Inc, including but not limited to the hiring and firing the Music director, the duty of member, the Music director, and the membership meetings as well as the use and ownership of Trademark.

e. Mr. Yu Liu, residing at 47 Patriot Hill Drive, Basking Ridge, NJ 07920, phone number 908-781-9618, was a longtime member and the past President of Applicant.

Subject of information: History of Edison Chinese Chorus Inc, including but not limited to the hiring and firing the Music director, the duty of member, the Music director, and the membership meetings as well as the use and ownership of Trademark.

f. Mr. Oi Mo, residing at 9 Windsong Circle East, Brunswick, NJ 08816, phone number 732-579-2760, was a longtime member of Applicant.

Subject of information: History of Edison Chinese Chorus Inc, including but not limited to the hiring and firing the Music director, the duty of member, the Music director, and the membership meetings as well as the use and ownership of Trademark.

g. Mr. CHIA-CHI TSUI, residing at 743 Clove Road, Staten Island, NY 10310, phone number 718-727-0670, was a longtime member of Applicant.

Subject of information: History of Edison Chinese Chorus Inc, including but not limited to the hiring and firing the Music director, the duty of member, the Music director, and the membership meetings as well as the use and ownership of Trademark.

h. Unidentified current or past members or friends of Opposer, and/or Applicant who may have further information related to the use and ownership of Trademark. Applicant will serve interrogatories on Opposer seeking the identification of persons with discoverable information.

(ii) Description by category and location of relevant documents in Applicant's possession, custody or control (unless they will be used solely for impeachment).

a. Copies of Applicant's Trademark Applications (which are available on USPTO website <http://ttabvue.uspto.gov/ttabvue/>).

b. Copies of Opposer's trademark applications and assignment of such (which are available on USPTO website <http://ttabvue.uspto.gov/ttabvue/>).

- c. Copies of evidence of the use and ownership of Trademark by Edison Chinese Chorus Inc. consistently from about 2001 to present, most are available online by searching using keywords “Edison Chinese Chorus” or Trademarks, “乡音合唱团” or “鄉音合唱團”.
- d. Copies of photos of Edison Chinese Chorus Inc. including photos taken on the first day of the Chorus (2/3/2001) and the performance on or about 12/1/2001 showing that Mr. Jianshe Lu and Mr. Yuanqi Wen were in the group with many other founding members of Applicant. (available on Applicant website www.EdisonChineseChorus.org).
- e. Copies of record showing the membership meeting voting results regarding the Music director, and other relevant information. (Applicant’s file).
- f. Opposer’s filing documents for their trademark which is identical to Trademark in the State of New Jersey and the incorporation documents in the State of New Jersey. (to be requested from Opposer with the Request for Production of Documents).
- g. Documents which are not in Applicant’s current possession, custody or control but relating to the use and ownership of Trademark by Applicant, and misrepresentation/deception by Opposer may be found and produced from public, third parties and other related sources.

Respectfully submitted:

By: /s/Cheng Q. Song
Cheng Q. Song, Ph.D. J.D.
Attorney for the Applicant
Dated: May 6, 2019

Certificate of Service

I hereby certify that a true and complete copy of the foregoing Applicant’s Initial Disclosures has been served on H. Danny Kao, KAO & Associates, Counsel for the Opposer, by forwarding said copy on May 6, 2019, via email to dkao@kaolawus.com.

Signature: /s/Cheng Q. Song

EXHIBIT G TO OPPOSER’S REPLY BRIEF

March 30, 2021
Xiang Yin He Chang Tuan Inc.,
Opposer
v.
Edison Chinese Chorus Inc.,
Applicant

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

**OPPOSER’S MOTION FOR JUDGMENT AND OPPOSER’S
ALTERNATIVE MOTION TO STRIKE APPLICANT’S TRIAL MATERIALS**

Opposer Xiang Yin He Chang Tuan Inc. (“Opposer” or “Plaintiff”) brings this motion for judgment in Opposer’s favor because of the prejudicial withholding by Applicant Edison Chinese Chorus Inc. (“Applicant” or “Defendant”) of 23 of its 44 Trial Exhibits (or portions thereof) and related discovery in descriptions and Trial Declarations until March 28, 2021, after the discovery period and Opposer’s Trial Period were long over on January 28, 2021.

In the alternative, if Opposer’s motion for judgment is not granted, then Opposer makes this motion based on the same operative facts to strike the Applicant’s Trial Declarations, Trial Exhibits, and Notice of Reliance (collectively “Trial Materials”). These Trial Materials suffer from a number of incurable procedural and substantive defects and they should be struck from the record.

These motions are compelled by the fact that Applicant has turned the orderly process of this action on its head by at the last minute and with extreme prejudice to Opposer, attempting to inject into this case a very large number of new issues and new exhibits from its files, including from several new, never disclosed witnesses, that were never before provided to Opposer. Opposer brought this action because in 2017 Applicant attempted to steal Opposer’s trademarks (two service marks) after Applicant learned that Opposer had not yet sought to register them (*supra*, p. 8, n.4). In response, Applicant has repeatedly sought delay and prejudice as the Opposer sought to discover and prove the facts of more than 20 years ago when the previous owner of the trademarks, Ms. Tan, created, controlled and licensed the trademarks. Applicant’s attempt to rely on 23 new exhibits (or portions of exhibits) and new witnesses never provided before in discovery, effectively on the last day of Applicant’s Trial Period, evidences bad

faith, a failure to comply with discovery obligations, and extreme prejudice and unfairness to Opposer that cannot be cured.

I. OPPOSER'S MOTION FOR JUDGMENT

Applicant produced 23 exhibits and information concerning them, including declaration evidence in six Trial Declarations, for the first time on March 28, 2021. These are ATE¹ 14 (Song Decl.), ATE 16 new translation (Fan and Yuejin Li Decl.), ATE 18 new translation (Fan and Yuejin Li Decl.), ATE 21 (Fan and Yuejin Li Decl.), ATE 22 (Fan Decl.), ATE 23 (Fan Decl.), ATE 24 (Fan Decl.), ATE 25 (Fan Decl.), ATE 26 (Fan Decl.), ATE 27 (Fan Decl.), ATE 28 (Fan Decl.), ATE 29 (Fan Decl.), ATE 30 (Fan Decl.), ATE 31 (Fan Decl.), ATE 32 (Fan Decl.), ATE 33 (Fan Decl.), ATE 34 (Fan Decl.), ATE 35 (Tang Decl.), ATE 36 (Tang Decl.), ATE 38 (Liu Decl.), ATE 40 (Fan and Yuejin Li Decl.), ATE 42 (Tang Decl.) and ATE 43 (May Declaration), which are presented and further described in Exhibit B submitted herewith. In addition to the six declarations with the new evidence, declarants Song, Liu, May, Lei, and Guo were not identified in any of Applicant's discovery disclosures or responses as having discoverable information and the remainder of the declarations' subject matter is relevant to and irredeemably tainted by the withheld information. Exhibit A submitted herewith.

These exhibits, their descriptions and related testimony were withheld from discovery. They were withheld from Opposer before it submitted its Trial Evidence. They were submitted in the evening before the last business day of Applicant's Trial Period. And Applicant represents on the first page of each of the exhibits that "[t]hey relate to the five claims in the Notice of Opposition," and that they are relevant and are admissible. Their materiality and the prejudice of their withholding is established by Applicant's own representations.

More specifically, this case concerns Applicant's theft of Opposer's trademarks in a war between two choirs that Applicant declared in 2017 and is fighting against Opposer. The Applicant's new exhibits and related declarations provide new information concerning key issues in the case, as Applicant either

¹ ATE refers to Applicant Trial Exhibit. OPE refers to Opposer Trial Exhibit.

states or implies. This information includes critical issues such as Applicant's alleged use of, and establishing of rights in, the trademarks in issue (e.g., ATE 18, ATE 24-ATE 33); the alleged creation and development of rights in the trademarks in issue (e.g., ATE 14, ATE 16, ATE 23, ATE 43); and the alleged management and control of Applicant, performances and/or the trademarks in issue (e.g., ATE 14, ATE 16, ATE 21-ATE 23, ATE 34-ATE 36, ATE 38, ATE 40, ATE 42). As Applicant admits on the first page of each of the exhibits, all of these documents relate to each of Opposer's five claims in this proceeding.

In addition, Applicant is relying on nine exhibits that are written in the Chinese language for which no translation (or no complete or certified translation) was provided (viz., ATE 24, ATE 27-ATE 31, ATE 39, ATE 42, ATE 43). Exhibit B.

One specific allegation is especially egregious: Applicant alleged an October 4, 2004 first use of the trademarks in issue in its application for registration (OTE R; OTE S). Now, at trial, without moving to amend its application for registration, Applicant is alleging a first use in 2001 (e.g., ATE 14-ATE 17, ATE 20, ATE 43), which is not permitted at this late stage of the proceeding. Applicant has attempted to significantly expand its defenses and responses to Opposer's case in chief with this new exhibit and declaration evidence.

The declarations provide no excuse for Applicant. For example, the Fan Declaration attempts to authenticate and support exhibits that are allegedly "In [his] files." That does not render the exhibits either authentic or admissible, as Mr. Fan lacks any personal knowledge of the critical events. Mr. Fan joined the Applicant only in 2011, more than ten years after the critical events in question (i.e., early 2001). Fan Trial Testimony (Opposer Trial Exhibit U) at 85 (line 24). Mr. Fan was the 30(b)(6) corporate witness for the deposition of Applicant and he is also its President. Thus, his testimony serves as admissions. Yet he did not provide these documents that were "[i]n [his] files" either before or after his deposition that were

early related to topics in his deposition notice that he testified about. Exhibit C (aka OTE T) submitted herewith.²

Likewise, concerning the Song Declaration, Mr. Song joined the Applicant in the summer of 2017, after Mr. Bin Lv (aka Bin Lu) left Applicant and virtually all of the events in question happened. Fan Trial Testimony (Opposer Trial Exhibit U) at 85 (lines 10-21). Mr. Song lacks any personal knowledge of the events in issue. In fact, all 12 of the declarations, all obviously drafted by one person using the same language for each, are conclusory and not based on personal knowledge. Each declaration states that different events did not happen, such as Ms. Tang asserting her rights in the trademarks, or what Mr. Bin Lu did or did not do. Yet the declarants cannot know that. At best they can only state that they were unaware of such an event, not that it never happened.

It is remarkable that more than one half of Applicant's Trial Exhibits, and the Trial Declarations concerning them, were provided for the very first time in Applicant's case in chief. That is not how this proceeding is designed to be managed. Applicant does not state that the withheld exhibits and testimony are only being submitted now because of a new development in the case, nor does Applicant provide any other excuse. It can only be assumed that Applicant is withholding much more discovery, including documents that do not help Applicant. Allowing the Trial Exhibits and Trial Declarations into evidence would cause obvious and significant disruption and prejudice to Opposer, as Opposer had no opportunity to address them in either discovery or in Opposer's case in chief. Opposer took its positions in this action on the creation, use and control of the trademarks in issue without knowledge of this withheld evidence and therefore would be further prejudiced if they come into evidence. Thus, there is no way to cure the prejudice that has been caused to Opposer. There is simply no sufficient, just or fair way to deal with this large amount of withheld evidence in the form of trial exhibits and trial testimony at this late stage when

² Opposer requested the withheld information in Applicant's 23 new Trial Exhibits and related declarations in discovery from Mr. Fan: Trademark use (ATE 18, 24-33; 30(b)(6) Topics 1, 2, 3, 4, 5, 7, 8, 14), trademark creation (ATE 14, 16, 23, 43; 30(b)(6) Topics 2, 3, 4, 5, 7), trademark/Applicant control (ATE 14, 16, 21-23, 34, 36, 38, 40, 42; 30(b)(6) Topics 4, 7, 8, 9-12, 15-19). Exhibit C submitted herewith.

so much has already happened. This proceeding has now been rendered irredeemably unfair and deficient by Applicant.

There is no valid question that Applicant had a duty to produce the documents it was relying on during the discovery period as Applicant itself has admitted their materiality. Opposer sought this discovery repeatedly in document requests, requests for admissions and interrogatories, but even if Opposer did not, Applicant was still under a duty to produce it during the discovery period or face the necessary consequences.

In light of the above, the only adequate remedy here is for judgment to be granted to Opposer and Applicant be denied any right to register the two marks in issue.

II. OPPOSER'S ALTERNATIVE MOTION TO STRIKE

If judgment is not granted to Opposer, then Opposer respectfully requests that the Board strike the Trial Declarations, Trial Exhibits, and Notice of Reliance of Applicant.

A. Applicant's Trial Declarations Are Inadmissible And Should Be Stricken

Applicant submitted 12 declarations of witnesses as its "Trial Declarations." Six of the declarations, including the Song, Fan, Yuejin Li, Tang, Liu and May declarations, explicitly provided new information and new Trial Exhibits that had been withheld by Applicant prior to March 28, 2021. Five declarants, namely Song, Liu, May, Lei, and Guo, also were not identified in any of Applicant's discovery responses (e.g., Initial Disclosure, interrogatory responses) as having discoverable information. Exhibit A submitted herewith summarizes this new evidence in the Trial Declarations while Exhibit B submitted herewith summarizes this new evidence in the Trial Exhibits.

This very large amount of substantive information that was withheld from Opposer but which was explicitly relied upon in six of the Trial Declarations taints the remaining six Trial Declarations because such a large amount of new information informed and otherwise influenced their testimony (e.g., all 12 declarations were obviously written by the same person who was aware of the 23 withheld exhibits), the

extent of which is not knowable or discoverable at this point by Opposer. Therefore, all 12 declarations should be struck from the record.³

B. Applicant’s Trial Exhibits Are Inadmissible On Several Grounds And Should Be Stricken

For the sake of convenience and clarity, submitted herewith as Exhibit B is a chart analyzing each of Applicant’s 44 Trial Exhibits and its admissibility. The grounds for striking each of the exhibits fall into at least three categories.

1. Each Of The 44 Trial Exhibits Relies On Inadmissible Trial Declarations

Applicant’s sole basis for the admissibility of each of Applicant’s 44 Trial Exhibits was one or more of Applicant’s Trial Declarations and, for some, Applicant’s Notice of Reliance, which contained no substance. As set forth in Section II.A. above, these Trial Declarations all written by one person rely on withheld evidence, produced for the first time on March 28, 2021, and thus the declarations and their associated 44 exhibits should be struck from the record. Exhibit A hereto.

2. 23 Of The Trial Exhibits Were Withheld From Opposer

As set forth in Section I above, 23 of the Applicant’s Trial Exhibits and/or information concerning them were withheld from Opposer until March 28, 2021, very late in the proceeding, after Opposer had set forth its positions from events that were more than 20 years ago. Exhibit B hereof. Applicant had no legitimate basis for withholding the Trial Exhibits and thus they are inadmissible as untimely. In addition, Applicant’s discovery responses are demonstrably not reliable, as it must be acknowledged that withholding 23 exhibits, more than half of Applicant’s total, evidences a party that did not act in good faith and did not comply with its discovery obligations, seeking to ambush its opponent.

3. Each Of The 44 Trial Exhibits Was Not Supported Under 37 CFR 2.122

Applicant was required by the rules to “indicate generally the relevance of the evidence and associate it with one or more issues in the proceeding.” Consistent with its failure to comply with its

³ The 12 declarations that should be struck from the record are specifically the Trial Declarations of Cheng Song, Chia-Chi Tsui, Daping Fan, Jian Tang, Jianjun Liu, Mann May, Min Li, Qi Mo, Yabin Lei, Yanpin Guo, Yu Liu, and Yuejin Li.

obligations in this proceeding, Applicant did not provide this information. Instead, for each of the 44 Trial Exhibits, Applicant made the same canned statement that lacked substance. Namely, Applicant identified the exhibit by name (e.g., “Opposer’s Replies to Applicant’s 1st Request for Documents”), sometimes made an assertion concerning its content (which were uniformly incorrect), and then merely stated that “They relate to the five claims in the Notice of Opposition” for each of the 44 Trial Exhibits. Such a word processing copy and paste exercise done 44 times did not comply with the rule. In addition, permitting Applicant to provide such information now, when more than one half of the exhibits and their contents and related declaration testimony were wrongfully withheld, and Opposer’s position already submitted, would be highly prejudicial and Applicant should not be given an opportunity to cure this defect.

In addition to the above, each of the 44 exhibits on its page 1 contains assertions by Applicant on their alleged meaning and import that are attorney arguments, hearsay, and not admissible evidence. The exhibits thus are composed incorrectly and confusingly and page 1 of each one of them should be struck from the record for this additional reason. Another issue with many of the exhibits is that they are incomplete or mixtures of documents, and thus no authentic or otherwise admissible, as set forth in Exhibit B submitted herewith.

C. Applicant’s Notice Of Reliance Lacks Substance And Should Be Stricken

Applicant’s single page Notice of Reliance lacks any substance and it should be stricken. It should also be struck from the record to avoid confusion because each of the Trial Exhibits it relies upon should also be struck from the record, leaving it with nothing to rely on and thus it should not remain in the record.

III. CONCLUSION

This proceeding has continued for several years with multiple motions to dismiss and summary judgment motions by the Applicant that have all been denied yet which all caused significant delay and prejudice to Opposer. The facts at issue here largely concern events in early 2001, more than 20 years ago, and the difficulty that length of time causes is compounded by time. Applicant filed its applications to register the marks in bad faith only after it discovered that Opposer had not yet done so. Fan Trial

Exhibit A
Withheld Evidence In Defendant's 12 Trial Declarations

Declarant	Identification Of Declarant In Applicant/ Defendant Discovery As Having Discoverable Information	Proffered Testimony Based On Wrongfully Withheld Exhibits And Subject Matter By ¶ No. (e.g., Reliance On And Relevance To Withheld Exhibits)
Chia-Chi Tsui		<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 3, 5 and 8 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Alleged use of the trademarks in performances and style of such, and ownership and control of the trademarks in ¶ 4 and 7 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>Alleged type of music and use of Chinese songs in performances and use and control of the trademarks in ¶ 6 is the subject matter of withheld exhibits ATE 18, 21, 24-34</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Daping Fan		<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 4 and 6 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Withheld ATE 16 (alleged creation and first use of the trademarks and ownership of the trademarks) in ¶ 5</p> <p>Alleged use of the trademarks in performances and style of such, and ownership and control of the trademarks in ¶ 7, 8, 10, 11 and 15 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>Withheld ATE 18, 21, 25-34, 40 (alleged use of the trademarks in performances and ownership and control of the trademarks) in ¶ 9, 12, 17, 18, 19 and 20</p> <p>Withheld ATE 22 (alleged control of the trademarks and payments to Opposer's Bin Lu) in ¶ 13</p> <p>Withheld ATE 23 (alleged creation of Applicant and ownership of the trademarks) in ¶ 14</p> <p>Withheld ATE 24 (alleged type of music and use of Chinese songs in performances and use and control of the trademarks) in ¶ 16</p>

		There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information
Jian Tang		<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 5-12, 14 and 18 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Withheld ATE 35 (alleged control of the trademarks and payments to Opposer's Bin Lu) in ¶ 13</p> <p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 15 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>Withheld ATE 36 (alleged use of the trademarks in performances and ownership and control of the trademarks) in ¶ 16</p> <p>Withheld ATE 42 (alleged use of the trademarks in performances and ownership and control of the trademarks) in ¶ 17</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Jianjun Liu	No	<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 3 and 4 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 5 and 7 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>Alleged control of the trademarks and payments to Opposer's Bin Lu in ¶ 6 is the subject matter of withheld exhibit ATE 22, 35, 38</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Mann May	No	<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 4-7 is the subject matter of withheld exhibit ATE 16, 23, 43</p> <p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 7-12 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>Withheld ATE 43 (alleged use of the trademarks in performances and ownership and control of the trademarks) in ¶ 12</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Min Li		Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 4, 5 and 9 is the subject matter of withheld exhibit ATE 16, 23, 43

		<p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 6 and 8 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>Alleged control of the trademarks and payments to Opposer’s Bin Lu in ¶ 7 is the subject matter of withheld exhibit ATE 22, 35, 38</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Qi Mo		<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 4 and 7 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 5 and 6 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Yabin Lei	No	<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 6 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 4 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>Alleged control of the trademarks and payments to Opposer’s Bin Lu in ¶ 5 is the subject matter of withheld exhibit ATE 22, 35, 38</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Yanpinp Guo	No	<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 4, 5, 7 and 8 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 6-10 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Yu Liu		<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 4 and 12 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Withheld ATE 38 (complaint: alleged use of the trademarks in performances and ownership and control of the trademarks, payments to Bin Lu) in ¶ 5-8</p>

		<p>Alleged control of the trademarks and ownership and payments to Opposer’s Bin Lu in ¶ 7, 10 and 13 is the subject matter of withheld exhibit ATE 22, 35, 38</p> <p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 9 and 11 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Yuejin Li		<p>Alleged creation and first use of the trademarks and ownership of the trademarks in ¶ 5-8, 10-14, 18 and 19 is the subject matter of withheld exhibits ATE 16, 23, 43</p> <p>Withheld ATE 16 (alleged creation of the trademarks and ownership of the trademarks) in ¶ 7</p> <p>Alleged use of the trademarks in performances and the style of such, and ownership and control of the trademarks in ¶ 9, 17 is the subject matter of withheld exhibits ATE 14, 16, 18, 21, 23-34, 36, 38, 40, 42</p> <p>Withheld ATE 18 (alleged use of the trademarks in performances and ownership and control of the trademarks) in ¶ 14</p> <p>Alleged control of the trademarks and ownership and payments to Opposer’s Bin Lu in ¶ 15-16 is the subject matter of withheld exhibit ATE 22, 35, 38</p> <p>Withheld ATE 21 (alleged use of the trademarks in performances and ownership and control of the trademarks) in ¶ 19</p> <p>Withheld ATE 40 (alleged use of the trademarks in performances and ownership and control of the trademarks) in ¶ 20</p> <p>There is no remaining subject matter in the declaration that is not related to and tainted by the withheld information</p>
Cheng Song	No	<p>Withheld ATE 14 (alleged organization of Opposer and use and control of the trademarks) in ¶ 19</p> <p>The remainder of the Song declaration is interpretation (all incorrect) of documents and events to which he is not a competent witness and to which he has no personal knowledge (he joined Applicant in 2017 after the events in question (OTE U, p. 85, lines 10-21)) which is all inadmissible attorney argument and not evidence</p>

Exhibit B
Plaintiff's Response To Issues Concerning Defendant's 44 Trial Exhibits

I	II	III	IV
Defendant Applicant Trial Exhibit (ATE) No.	Brief Description From Defendant (and reference to Plaintiff's/ Opposer's Trial Exhibits as applicable ("OTE"))	Defendant/Applicant Basis For The Admission Of The Exhibit As Evidence And Plaintiff's Response To The Basis	Summary Of Plaintiff's/ Opposer's Position On The Exhibit
ATE 1	Opposer's Replies to Applicant's 1 st Request for Documents	Defendant relies on Bin Lu trial testimony and the Decl. of Cheng Song (ATE 1, p.1) Plaintiff objects: Mr. Lu (OTE Z) did not authenticate nor render ATE 1 admissible and the Decl. of Cheng Song is not admissible. ⁵ Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 1 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 2	Opposer's Replies to Applicant's 3 rd Request for Documents	Defendant relies on Bin Lu trial testimony and the Decl. of Cheng Song (ATE 2, p.1). Plaintiff objects: Mr. Lu (OTE Z) did not authenticate nor render ATE 2 admissible and the Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 2 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 3	Opposer's 1 st Notice of Opposition	Defendant relies on the Decl. of Cheng Song (ATE 3, p.1) Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 3 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 4	Opposer's Amended Notice of Opposition and exhibits	Defendant relies on the Decl. of Cheng Song (ATE 4, p.1) Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the	Plaintiff objects to ATE 4 because there is no valid basis for admission of the exhibit as evidence asserted

⁵ The admissibility of Applicant's Trial Declarations referred to in this table is addressed in the body of the motion submitted herewith.

		relevance of the exhibit and an association of it with issues in the proceeding	by Defendant (column III)
ATE 5	<p>Opposer's Motion to Amend Notice of Opposition</p> <p>This exhibit is missing the attachments that are said to be included</p>	<p>Defendant relies on the Decl. of Cheng Song (ATE 5, p.1)</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p> <p>Note: Defendant stated that the attachments to the exhibit were also being relied upon but did not attach any exhibits. ATE 5, p. 1</p>	Plaintiff objects to ATE 5 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 6	Ms. Qian Tan's Declaration	<p>Defendant relies on the Decl. of Cheng Song (ATE 6, p.1)</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	Plaintiff objects to ATE 6 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III). However, this is an exhibit cited by Plaintiff (i.e., OTE D)
ATE 7	Opposer's Second Amended Notice of Opposition	<p>Defendant relies on the Decl. of Cheng Song (ATE 7, p.1)</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	Plaintiff objects to ATE 7 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 8	Opposer's Third Amended Notice of Opposition	<p>Defendant relies on the Decl. of Cheng Song (ATE 8, p.1.</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to provide a description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	Plaintiff objects to ATE 8 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 9	Opposer's Opposition to Applicant's Motion for Judgment	<p>Defendant relies on the Decl. of Cheng Song (ATE 9, p.1)</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to</p>	Plaintiff objects to ATE 9 as submitted because there is no valid basis for

	<p>The exhibit is missing the papers that comprised the motion, including declarations and exhibits</p>	<p>provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p> <p>In addition, Plaintiff objects to ATE 9 as submitted because it is incomplete and is missing the supporting documentation that is referred to in the document, including exhibits and declarations.</p>	<p>admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 10	<p>Opposer's Replies to Applicant's First Set of Interrogatories</p> <p>This interrogatory response was amended but not included in the exhibit</p>	<p>Defendant relies on the Decl. of Cheng Song and Applicant's Notice of Reliance (ATE 10, p.1)</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Applicant's Notice of Reliance does not address ATE 10, and Defendant's assertion otherwise is not correct. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p> <p>In addition, Plaintiff objects to ATE 10 as submitted because it is incomplete and is missing the Plaintiff's amendment</p>	<p>Plaintiff objects to ATE 10 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 11	<p>Opposer's Replies to Applicant's Third Set of Requests for Admissions</p> <p>These responses were amended but not included in the exhibit</p>	<p>Defendant relies on the Decl. of Cheng Song and Applicant's Notice of Reliance (ATE 11, p.1)</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Applicant's Notice of Reliance does not address ATE 11, and Defendant's assertion otherwise is not correct. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p> <p>In addition, Plaintiff objects to ATE 11 as submitted because it is incomplete and is missing the Plaintiff's amendment</p>	<p>Plaintiff objects to ATE 11 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 12	<p>Opposer's Replies to Applicant's Fourth Set of Requests for Admissions</p> <p>These responses were amended but not included in the exhibit</p>	<p>Defendant relies on the Decl. of Cheng Song and Applicant's Notice of Reliance (ATE 12, p.1)</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Applicant's Notice of Reliance does not address ATE 12, and Defendant's assertion otherwise is not correct. Defendant also failed to provide a substantive description of the relevance of</p>	<p>Plaintiff objects to ATE 12 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>

		<p>the exhibit and an association of it with issues in the proceeding</p> <p>In addition, Plaintiff objects to ATE 12 as submitted because it is incomplete and is missing the Plaintiff’s amendment</p>	
ATE 13	Opposer’s Pretrial Disclosures	<p>Defendant relies on the Decl. of Cheng Song (ATE 13, p.1)</p> <p>Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p> <p>Note: Applicant claims that this exhibit “disclosed for the first time, six Opposer’s witnesses who have knowledge...” (ATE 13, p. 1), which is not correct. These witnesses were discovered in the discovery deposition of Mr. Bin Lu and disclosed in Plaintiff’s First Amendment to Opposer’s Discovery Responses that were served on October 30, 2020, before the end of the discovery period, all of which is stated in ATE 13</p>	Plaintiff objects to ATE 13 as submitted because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 14 ⁶	Alleged copies of Opposer’s incorporation documents that were not provided during discovery in this action nor before March 28, 2021	<p>Defendant relies on the Decl. of Cheng Song and Applicant’s Notice of Reliance (ATE 14, p.1).</p> <p>Plaintiff objects: This document was not produced by either party in discovery. It was also not disclosed in Defendant’s pretrial disclosure. The Decl. of Cheng Song is not admissible. Applicant’s Notice of Reliance does not address ATE 14, and Defendant’s assertion otherwise is not correct. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding.</p>	Plaintiff objects to ATE 14 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III).
ATE 15	Photo with new assertions concerning information on the Photo (ATE 15, p. 1). These new assertions concerning the	<p>Defendant relies on the Decl. of Daping Fan and the Decl. of Yuejin Li (ATE 15, p.1)</p> <p>Plaintiff objects: The assertions concerning the information on the Photo was not produced by either party in discovery. It</p>	Plaintiff objects to ATE 15 because there is no valid basis for admission of the exhibit as

⁶ The red color type is used to identify the 23 exhibits with new information (e.g., the entire document was produced for the first time on March 28, 2021; a new translation was added).

	information on the photo were not provided during discovery (Plaintiff has the original photo with none of the information on it, OTE E)	was also not disclosed in Defendant's pretrial disclosure. The Decl. of Daping Fan and the Decl. of Yuejin Li are not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	evidence asserted by Defendant (column III)
ATE 16 with new translation	Alleged copy of a handwritten note and a new translation (ATE 16, p. 1). The translation is dated January 29, 2021 and it was not provided in discovery	Defendant relies on the Decl. of Daping Fan and the Decl. of Yuejin Li (ATE 16, p.1) Plaintiff objects: The translation of the document was not produced by either party in discovery. The author of the document was not deposed concerning the exhibit. It was also not disclosed in Defendant's pretrial disclosure. The Decl. of Daping Fan and the Decl. of Yuejin Li are not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 16 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 17	Alleged copy of a "symbolic" (i.e., fake) check and information concerning it (ATE 17, p. 1). The information concerning the fake check was not provided in discovery or at any time before March 28, 2021. This includes ATE 23, addressed	Defendant relies on the Decl. of Daping Fan and the Decl. of Yuejin Li (ATE 17, p.1) Plaintiff objects: The information concerning the fake check was not produced by either party in discovery. It was also not disclosed in Defendant's pretrial disclosure. The Decl. of Daping Fan and the Decl. of Yuejin Li are not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 17 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 18 with new translation	Alleged copy of a program brochure and a translation (ATE 18, p. 1). The translation is dated January 29, 2021, which is well after the close of discovery and after the close of Plaintiff's trial testimony period	Defendant relies on the Decl. of Daping Fan and the Decl. of Yuejin Li (ATE 18, p.1). Plaintiff objects: The translation was not produced by either party in discovery. It was also not disclosed in Defendant's pretrial disclosure. The Decl. of Daping Fan and the Decl. of Yuejin Li are not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding.	Plaintiff objects to ATE 18 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III).
ATE 19	Alleged copies of "financial statements/detailed	Defendant relies on the Decl. of Daping Fan and the Decl. of Yuejin Li (ATE 19, p.1)	Plaintiff objects to ATE 19 because there is

	income and expense reports” (ATE 19, p. 1)	Plaintiff objects: The Decl. of Daping Fan and the Decl. of Yuejin Li are not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 20	List of “Chorus Members as of Feb. 2001” (ATE 20, p. 1) ATE 20 is the same as OTE F	Defendant relies on the Decl. of Daping Fan and the Decl. of Yuejin Li (ATE 20, p.1) Plaintiff objects (except for as stated in column IV): The information concerning the document on ATE 20, p. 1 was not produced by either party in discovery. It was also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan and the Decl. of Yuejin Li are not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	No objection to OTE F, the second page of ATE 20 (Defendant’s use supports the admissibility of Plaintiff’s Trial Exhibit). Plaintiff objects to the remainder of ATE 20 on page 1 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 21	Alleged email and “letter written to the members” (ATE 21, p. 1) and information concerning such, all of which was not provided during discovery in this action nor before March 28, 2021 Both the email and letter do not contain any dates.	Defendant relies on the Decl. of Daping Fan and the Decl. of Yuejin Li (ATE 21, p.1) Plaintiff objects: The email, letter and the information concerning it were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan and the Decl. of Yuejin Li are not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 21 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 22	Alleged “examples of email approvals...” (ATE 22, p. 1) and information concerning such, portions of which were not provided during discovery in this action nor before	Defendant relies on the Decl. of Daping Fan (ATE 22, p.1) Plaintiff objects: Certain of the “examples” and the information concerning them were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the	Plaintiff objects to ATE 22 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)

	March 28, 2021 (e.g., the last page)	relevance of the exhibit and an association of it with issues in the proceeding	
ATE 23	Alleged “email response” and information concerning such (ATE 23, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021	Defendant relies on the Decl. of Daping Fan (ATE 23, p.1) Plaintiff objects: The “email response” and the information concerning it was not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 23 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 24	Alleged “examples of Choirs of traditional Chinese folk songs [sic]” and information concerning such (ATE 24, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021. No translation of the document is provided	Defendant relies on the Decl. of Daping Fan (ATE 24, p.1) Plaintiff objects: The “examples” and information concerning them were not produced by either party in discovery. No translation is provided. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 24 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 25	Alleged “examples of Applicant’s performance program brochures” and information concerning such (ATE 25, p. 1), all of which were not provided during discovery in this action nor before March 28, 2021	Defendant relies on the Decl. of Daping Fan (ATE 25, p.1) Plaintiff objects: The “examples” and the information concerning them were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 25 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 26	Alleged “examples of Applicant’s performance program brochures” and information concerning such (ATE 26, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021	Defendant relies on the Decl. of Daping Fan (ATE 26, p.1) Plaintiff objects: The “examples” and the information concerning them were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the	Plaintiff objects to ATE 26 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)

	The exhibit appears to contain only one brochure	relevance of the exhibit and an association of it with issues in the proceeding	
ATE 27	Alleged “examples of Applicant’s performance program brochures” but which are actually third party news reports and information concerning such (ATE 27, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021 No translation is provided	Defendant relies on the Decl. of Daping Fan (ATE 27, p.1) Plaintiff objects: The “examples” are not brochures and the information concerning them were not produced by either party in discovery. No translation is provided. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 27 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 28	Alleged “examples of Applicant’s performance program brochures” but which are actually third party news reports and information concerning such (ATE 28, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021 No translation is provided	Defendant relies on the Decl. of Daping Fan (ATE 28, p.1) Plaintiff objects: The “examples” are not brochures and the information concerning them were not produced by either party in discovery. No translation is provided. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 28 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 29	Alleged “examples of Applicant’s performance program brochures” but which are actually third party news reports and information concerning such (ATE 29, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021	Defendant relies on the Decl. of Daping Fan (ATE 29, p.1) Plaintiff objects: The “examples” are not brochures and the information concerning them were not produced by either party in discovery. No translation is provided. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 29 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)

	No translation is provided		
ATE 30	<p>Alleged “examples of Applicant’s performance program brochures” but which are actually third party news reports and information concerning such (ATE 30, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p> <p>No translation is provided</p>	<p>Defendant relies on the Decl. of Daping Fan (ATE 30, p.1).</p> <p>Plaintiff objects: The “examples” are not brochures and the information concerning them were not produced by either party in discovery. No translation is provided. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 30 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 31	<p>Alleged “examples of Applicant’s performance program brochures” but which are actually third party news reports and information concerning such (ATE 31, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p> <p>No translation is provided</p>	<p>Defendant relies on the Decl. of Daping Fan (ATE 31, p.1)</p> <p>Plaintiff objects: The “examples” are not brochures and the information concerning them were not produced by either party in discovery. No translation is provided. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 31 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 32 (parts I and II)	<p>Alleged “examples of Applicant’s performance program brochures” and information concerning such (ATE 32, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p>	<p>Defendant relies on the Decl. of Daping Fan (ATE 32, p.1)</p> <p>Plaintiff objects: The “examples” and the information concerning them were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 32 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 33	<p>Alleged “examples of Applicant’s performance program brochures” and</p>	<p>Defendant relies on the Decl. of Daping Fan (ATE 33, p.1)</p>	<p>Plaintiff objects to ATE 33 because there is no valid basis for</p>

	<p>information concerning such (ATE 33, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p> <p>The exhibit appears to contain only one brochure</p>	<p>Plaintiff objects: The “examples” and the information concerning them were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 34	<p>Alleged “email” concerning management and information concerning such (ATE 34, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p>	<p>Defendant relies on the Decl. of Daping Fan (ATE 34, p.1)</p> <p>Plaintiff objects: The “email” and the information concerning it were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Daping Fan is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 34 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 35	<p>Alleged “email” and table of unknown origin concerning management and information concerning such (ATE 35, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p>	<p>Defendant relies on the Decl. of Jian Tang (ATE 35, p.1)</p> <p>Plaintiff objects: The “email” and the information concerning it were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Jiang Tang is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 35 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 36	<p>Alleged email concerning management and information concerning such (ATE 36, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p>	<p>Defendant relies on the Decl. of Jian Tang (ATE 36, p.1)</p> <p>Plaintiff objects: The “email” and the information concerning it were not produced by either party in discovery. They were also not disclosed in Defendant’s pretrial disclosure. The Decl. of Jiang Tang is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 36 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 37	<p>Alleged financial documents and information</p>	<p>Defendant relies on the Decl. of Min Li (ATE 37, p.1)</p>	<p>Plaintiff objects to ATE 37 because there is</p>

	concerning such (ATE 37, p. 1)	Plaintiff objects: The document set and the information concerning it were not disclosed in Defendant's pretrial disclosure. The Decl. of Min Li is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 38	Alleged legal complaint and information concerning such (ATE 38, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021	Defendant relies on the Decl. of Yu Liu (ATE 38, p.1) Plaintiff objects: The complaint and the information concerning it were not produced by either party in discovery. They were also not disclosed in Defendant's pretrial disclosure. The Decl. of Yu Liu is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 38 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 39	Partial copy of alleged meeting minutes and information concerning such (ATE 39, p. 1) This exhibit is missing pages 1 and 2 of the original produced by Applicant No certification from a translator is provided with the asserted translation	Defendant relies on the Decl. of Yu Liu (ATE 39, p.1) Plaintiff objects: The meeting minutes and the information concerning them are missing two pages and thus this is not an authentic or complete exhibit. No sufficient translation is provided. The partial exhibit was also not disclosed in Defendant's pretrial disclosure. The Decl. of Yu Liu is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 39 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
ATE 40	Alleged meeting minutes and information concerning such (ATE 40, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021 This is not a complete email. The authors, sender and date were cut off. This is also a mixture of different types of documents	Defendant relies on the Decl. of Yuejin Li (ATE 40, p.1) Plaintiff objects: The meeting minutes and the information concerning them were not produced by either party in discovery. This is not a complete or authentic document. The exhibit was also not disclosed in Defendant's pretrial disclosure. The Decl. of Yuejin Li is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	Plaintiff objects to ATE 40 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)

	and is not authentic or complete		
ATE 41	<p>Pleadings shared between the parties concerning discovery and trial</p> <p>This is a mixture of disparate documents and thus not admissible as an exhibit</p>	<p>Defendant relies on the Decl. of Cheng Song (ATE 41, p.1)</p> <p>Plaintiff objects: This is not a complete and authentic document but instead is a mixture of unrelated documents. The Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 41 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 42	<p>Alleged letter by Mr. Bin Lv and information concerning such (ATE 42, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p> <p>The exhibit contains a typewritten addition and an incomplete translation dated February 4, 2021. The translation certification states that it “is a complete (except the past paragraph) and accurate English translation”</p>	<p>Defendant relies on the Decl. of Jian Tang (ATE 42, p.1)</p> <p>Plaintiff objects: The letter, the typewritten addition, the translation, and the information concerning it were not produced by either party in discovery. The translation is not complete. The typewritten addition is not part of the original. This was also not disclosed in Defendant’s pretrial disclosure. The Decl. of Jian Tang is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 42 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 43	<p>Alleged photo of a performance and information concerning such (ATE 43, p. 1), all of which was not provided during discovery in this action nor before March 28, 2021</p> <p>No translation is provided</p>	<p>Defendant relies on the Decl. of Mann May (ATE 43, p.1)</p> <p>Plaintiff objects: The letter and the information concerning it were not produced by either party in discovery. No translation is provided. It was also not disclosed in Defendant’s pretrial disclosure. The Decl. of Mann May is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding</p>	<p>Plaintiff objects to ATE 43 because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)</p>
ATE 44	Email between counsel concerning	Defendant relies on the Decl. of Cheng Song (ATE 44, p.1)	Plaintiff objects to ATE 44

	service of expert report (ATE 44, p. 1)	Plaintiff objects: The Decl. of Cheng Song is not admissible. Defendant also failed to provide a substantive description of the relevance of the exhibit and an association of it with issues in the proceeding	because there is no valid basis for admission of the exhibit as evidence asserted by Defendant (column III)
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