

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

Mailed: May 13, 2019

Opposition No. 91240654

The Christian Broadcasting Network, Inc.

v.

Delicious Ltd.

Wendy Boldt Cohen, Interlocutory Attorney:

This case comes before the Board on Applicant's motion contesting portions of Opposer's notice of reliance requesting that the Board take judicial notice of certain facts. *See* 18 TTABVUE. It is the policy of the Board not to read trial testimony or examine other trial evidence prior to final decision. *See* TBMP §§ 502.01 and 532 (2018). Thus, if a motion cannot be resolved simply by reviewing the face of the notice of reliance and attached documents, but instead would require a review of testimony or other evidence, determination of the motion will be deferred by the Board until final hearing. *See, e.g., Kate Spade LLC v. Thatch, LLC*, 126 USPQ2d 1098, 1106 (TTAB 2018); *ProMark Brands Inc. v. GFA Brands, Inc.*, 114 USPQ2d 1232, 1239 n.32 (TTAB 2015); *M-Tek Inc. v. CVP Systems Inc.*, 17 USPQ2d 1070, 1073 n.2 (TTAB 1990); *see also* TBMP § 704.12.

Here, the parties dispute whether certain facts may be judicially noticed by the Board. *See* 18 TTABVUE; 19 TTABVUE. In view thereof and because review of the

notice of reliance and facts sought to be judicially noticed is required to determine the motion, and because determination of the motion would require the Board to consider the substantive objections as they pertain to the submitted facts, determination of the motion is **deferred** by the Board until final hearing.