

ESTTA Tracking number: **ESTTA176756**

Filing date: **11/26/2007**

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

Proceeding	91159361
Party	Plaintiff Threshold Enterprised Ltd.
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Submission	Opposition/Response to Motion
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Signature	/s/ Kristin L. Lingren/
Date	11/26/2007
Attachments	Opposer Threshold Enterprise's Response to Motion for Protective Order.pdf (33 pages)(2259124 bytes)

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

THRESHOLD ENTERPRISES, LTD.,)

Opposer,)

v.)

**NATURAL SOURCE
INTERNATIONAL, LTD.,**)

Applicant.)

Opposition No. 91159361

**OPPOSER’S RESPONSE TO APPLICANT’S MOTION FOR
PROTECTIVE ORDER AND OPPOSER’S MOTION FOR
SUSPENSION OF PROCEEDINGS PENDING RESOLUTION**

INTRODUCTION

In its Motion for Protective Order (“Motion”), Applicant, Natural Source International, Ltd. (“Applicant” or “NSI”), accuses Opposer, Threshold Enterprises, Ltd. (“Opposer” or “Threshold”) of “vexatious litigation tactics” and an “ongoing pattern of harassment.” Clearly, through its hyperbole, NSI seeks to divert attention away from its own questionable conduct during the course of the last several years of proceedings before the Board, and prevent Threshold from pursuing legitimate and searching discovery relating to the applied-for mark as it is and will be used in commerce.

Opposer requests that the Board deny NSI's Motion and allow Threshold’s Rule 30(b)(6) deposition of NSI to proceed on the deposition topics as set forth in the deposition notice or, in the alternative, to allow the deposition to proceed on the topics as limited to factual matters relating to the slogan mark SOURCED FROM NATURE . . . PERFECTED BY SCIENCE (the “Slogan Mark”). Threshold also requests that the Board enter an order suspending proceedings pending resolution of Applicant’s Motion and reset remaining deadlines in this proceeding.

of confusion in the marketplace. As a result of NSI's conduct, Threshold has had a difficult time monitoring and policing its TEL Marks against NSI uses.

NSI's trademark application process has been similarly variable. In 2003, NSI sought United States trademark registrations for the mark NATURAL SOURCE & Design and for the mark SOURCED FROM NATURE...PERFECTED BY SCIENCE, both for use in connection with "dietary supplements" in Class 5. (Applicant's Memorandum of Law in Support of Motion for Protective Order ("Memorandum") at 1). Threshold opposed both of the above applications on grounds that registration would cause a likelihood of confusion with the TEL Marks. (*Id.*) In 2006, NSI abandoned its application for the mark NATURAL SOURCE & Design, and the Board entered judgment against NSI, upheld Threshold's opposition, and refused registration on May 22, 2007. (TTAB May 22, 2007 Order at 1, Opp. No. 91159137, Docket No. 36).¹

In 2005, NSI filed a U.S. trademark application for NATURAL SOURCE SOURCED FROM NATURE . . . PERFECTED BY SCIENCE, only to withdraw it barely five months later. (*See* Lingren Decl., Exhibit B, ¶ 10 and Exhibit 5 thereto).

Threshold's current opposition involves NSI's application for the Slogan Mark SOURCED FROM NATURE . . . PERFECTED BY SCIENCE, the one remaining application that implicates the TEL Marks. As reflected above, however, NSI's latest lingering application is really part of a continuum of NSI's attack of the TEL Marks.

NSI objects to providing testimony relating to marks other than the Slogan Mark and/or products bearing any marks other than the Slogan Mark (collectively, "Other Information"), as to Topic Nos. 1-11 and 14 in the Notice. (*See* Exhibit 6 to Lingren Decl., Exhibit B). Given NSI's practices, Threshold is entitled to discovery concerning facts that impact the likelihood of

¹ The Board found that NSI's application of express abandonment was without the express consent of Threshold and, therefore, the Board entered judgment against NSI, sustained Threshold's opposition and refused NSI's application to register the mark at issue. (*See* Opp. No. 91159137, Docket No. 36).

confusion analysis. The overall commercial impression the Slogan Mark makes upon the consuming public is central to that analysis. Testimony from NSI concerning the other marks that accompany the Slogan Mark therefore is relevant. NSI's motion should be denied.

ARGUMENT

I. THRESHOLD'S DEPOSITION NOTICE IS PROPER

A. The Date And Deposition Duration Specified In The Notice Are Appropriate

NSI's procedural objections to Threshold's Notice of Rule 30(b)(6) Deposition ("Notice") are without merit. (*See* Memorandum at 2, 3, 11). In the Notice, which was served upon NSI on October 24, 2007, Threshold specified a deposition date in the Notice as required under T.B.M.P. § 404.05 ("The notice shall state the time and place for taking the deposition. . . ."). Similarly, under T.B.M.P. § 404.05 it is "strongly recommended" that the deposing party contact the party to be deposed "well in advance" of the proposed deposition to "arrange a mutually convenient time for the deposition." Even if the Notice somehow could be "deficient" for failure to comply with Section 404.05's *recommendation*, NSI errs in its assertion because Threshold did in fact comply with the recommendation — in the cover letter attaching the Notice, Threshold offered to hold the deposition on a mutually agreeable alternative date if the date noticed (November 7) presented a scheduling conflict. (*See* Lingren Decl., Exhibit B, ¶ 3 and Exhibit 1 thereto).

Similarly, NSI baselessly complains that the Notice is deficient because it states that the deposition shall "continue until completed." (Memorandum at 3, 11). It goes without saying that, as a deposition noticed under Rule 30(b)(6) of the Federal Rules of Civil Procedure, the deposition itself will be governed by the procedural and substantive limitations of that rule and case law interpreting that rule, including time limitations. NSI may be entitled to stop the deposition if it lasts more than seven hours, but the Notice is not "deficient" simply because its

states that it shall continue until completed. *See, e.g., Cumberland Truck Equip. Co. v. Detroit Diesel Corp.*, No. 05-CV-74594-DT, 2007 WL 3038002, *2 (E.D. Mich. Oct. 18, 2007) (ordering Rule 30(b)(6) depositions to “continue until completed”).

Finally, through artful half-truths, NSI attempts to leave the Board with the impression that Threshold completely ignored NSI’s overture to discuss the case and the deposition notice. (Memorandum at 2). Here is a more fulsome recitation of events. On Wednesday, October 24, 2007, Threshold served via e-mail its Rule 30(b)(6) deposition notice on NSI. (Lingren Decl., Exhibit B, ¶ 3 and Exhibit 1 thereto). On Wednesday, October 31, NSI’s counsel sent a letter to Threshold’s counsel objecting to the deposition notice and demanding that, by the close of business the next day, November 1, Threshold set up a time to meet and confer. (*Id.* ¶ 4 and Exhibit 2 thereto). While Threshold was not able to get back to NSI by the unilateral deadline, the very next morning, on November 2, Threshold’s counsel called NSI’s counsel (who, apparently, was out of the office on travel) and followed up with an e-mail to suggest a very brief extension of discovery to allow the parties to advance their settlement discussions without the “distraction of the Rule 30(b)(6) issues.” (*Id.* ¶¶ 5-6 and Exhibit 3 thereto). NSI’s counsel responded promptly that she would let Threshold know on Monday, November 5 if NSI would agree to an extension. (*Id.* ¶ 7 and Exhibit 4 thereto). Thereafter, on Monday, November 5, counsel for NSI left a voice mail message and rejected any suggestion of an extension of discovery. (*Id.* ¶ 8). On Tuesday, November 6, 2007, both of the attorneys working on behalf of Threshold, Mr. Baron and Ms. Lingren, were engaged in a meeting out of the office to prepare for an out of town mediation to be held later that week in another unrelated matter. (*Id.* ¶ 9). That same day, NSI filed its motion for a protective order.

So, after taking a week to respond to a Rule 30(b)(6) notice, three days to respond to a reasonable request to extend the discovery period by 14 days so the parties could continue

settlement discussions and then, thereafter, rejecting Threshold's proposal to extend discovery out of hand, it is patently unfair for NSI to portray Threshold as stonewalling efforts to have meaningful discussions about discovery.

B. The Scope Of Topics In The Notice Is Appropriate

NSI has failed to sustain its burden to show good cause exists to limit the Rule 30(b)(6) deposition to the topics only as they concern the Slogan Mark. NSI claims that discovery as to Other Information is not relevant. (Memorandum at 9, 11-12). Relevancy "is broadly construed at the discovery stage of litigation and a request for discovery "should be considered relevant if there is *any* possibility that the information sought may be relevant to the subject matter of the action" *Gagne v. Reddy*, 104 F.R.D. 454, 456 (D. Mass. 1984), *quoting Miller v. Doctor's General Hospital*, 76 F.R.D. 136, 138 (W.D. Okla. 1977). Unless it is "palpable" that the evidence sought to be made subject to discovery "can have no possible bearing upon the issues, the spirit of the new federal rules calls for every relevant fact . . . to be brought out for the inspection not only of the opposing party but for the benefit of the court. . . ." *E.I. Du Pont de Nemours & Co. v. Deering Milliken Research Corp.*, 72 F.R.D. 440, 443 (D. Del. 1976), *quoting Hercules Powder Co. v. Rohm & Haas Co.*, 3 F.R.D. 302, 304 (D. Del. 1943). The discovery sought here has a clear bearing upon the issues in this Opposition.

Threshold opposes registration of the Slogan Mark on grounds that it is likely to cause confusion with the TEL Marks. To determine likelihood of confusion, the Board must analyze "all of the facts in evidence that are relevant to the factors bearing on the likelihood of confusion issue (the Du Pont factors)." *Barbara's Bakery Inc. v. Landesman*, 82 U.S.P.Q. 2d 1283, 1286 (TTAB 2007). Relevant factors include an examination of whether the marks "are sufficiently similar in terms of their overall commercial impression that confusion as to the source of the goods offered under the respective marks is likely to result." The focus is on "the recollection of

the average purchaser,” who normally retains a general rather than a specific impression of trademarks. *Sealed Air Corp. v. Scott Paper Co.*, 190 U.S.P.Q. 106, 108 (TTAB 1975). That is, even in an opposition proceeding the Board must examine whether the parties’ products:

are marketed under such conditions that they would be likely to be encountered by the same persons under circumstances that could give rise, because of the similarity of the marks employed thereon, to the mistaken belief that they originate from or are in some way associated with the same producer.

Id.

In this case, the “overall commercial impression” of the Slogan Mark is influenced by conditions under which NSI’s products are marketed; *i.e.*, the way in which NSI uses the Slogan Mark on its packaging and in conjunction with its other marks. Accordingly, it is appropriate for the Board to consider the commercial impression created by SOURCED FROM NATURE . . . PERFECTED BY SCIENCE when viewed in conjunction with NSI’s other marks and packaging that provide source-indicating significance. *Cf. In re ALP of South Beach, Inc.*, 79 U.S.P.Q. 2d 1009, 1012 (TTAB 2006) (considering actual use of mark in marketplace in determining registrability). Moreover, to understand what the recollection of the average purchaser would be requires an understanding of the extent to which the Slogan Mark appears in close proximity to NSI’s other marks, including NATURAL SOURCE. On information and belief, NSI juxtaposes its trade name, Natural Source International and/or the shorthand, NATURAL SOURCE, next to the Slogan Mark. Certainly, at the discovery stage of this case, Threshold should not have to close its eyes to the totality of circumstances of how NSI uses the Slogan Mark and, in particular, the interplay between the Slogan Mark and NATURAL SOURCE. Because the Other Information falls within the ambit of discoverable matters, the topics in the Notice are proper in their entirety. NSI’s motion to limit the scope of the deposition should be denied.

C. NSI Has Failed to Establish “Good Cause” or “Extraordinary Circumstances” Warranting a Bar on the Deposition

Not surprisingly, NSI fails to cite a single authority to support its argument that a Rule 30(b)(6) deposition should be barred *in its entirety* if one or more of the noticed topics goes beyond the scope of relevant matters. No such authority exists. Rather, protective orders should be tailored to disallow discovery only as to areas plainly outside the purview of discovery; *i.e.*, not relevant or reasonably calculated to lead to the admissibility of relevant evidence. Absent “extraordinary circumstances,” a court should not prohibit altogether the taking of a deposition. *Salter v. Upjohn Co.*, 593 F.2d 649, 651 (5th Cir. 1979); *Motsinger v. Flynt*, 119 F.R.D. 373, 378 (D.C.N.C. 1988).

NSI does not challenge the relevancy of any of the deposition topics except as they relate to topics including Other Information; *i.e.*, to information about NATURAL SOURCE. NSI therefore has failed to establish the “good cause” or “extraordinary circumstances” necessary to bar the deposition in its entirety.² Accordingly, at minimum, the Rule 30(b)(6) deposition should be allowed on all noticed topics as they relate to the Slogan Mark. *See, e.g., Johnson v. Mortham*, 164 F.R.D. 571, 572 (N.D. Fla. 1996) (granting protective order as to deposition only as to subject matter not relevant to remaining issues in case).

² To the extent that NSI is arguing that Threshold’s “vexatious” litigation conduct warrants a bar on the deposition, this argument should be rejected. NSI attempts to cobble together a picture of harassment with instances of allegedly “aggressive litigation tactics”. (Memorandum at 8). NSI complains that Threshold improperly fought to include certain provisions within the parties’ stipulated protective order (to provide greater protection to both parties) “wasted the parties’ time and money” on a “fruitless and pointless exercise.” (*Id.*). The Board, however, never found Threshold’s requests were inappropriate or frivolous. (See TTAB August 2, 2007 Order, Opp. No. 91159137, Docket No. 28). Moreover, Threshold met and conferred with NSI numerous times to try to agree on terms, without success. (Lingren Decl., Exhibit B, ¶ 12). NSI’s argument cuts both ways -- NSI ignores the undeniable fact that no delay or expense would have occurred if NSI had not fought to exclude the same provisions Threshold felt it needed to include.

In any event, NSI itself is equally guilty of prolonging this proceeding and requiring Threshold to engage “fruitless and pointless exercise[s].” NSI has changed attorneys at least three times during the past year, and each new set of attorneys engaged Threshold’s counsel in new negotiations covering old ground. In fact, at the specific request of NSI, Threshold twice has put together settlement drafts and materials at considerable expense, only to have NSI refuse to follow up with substantive discussions. (Lingren Decl., Exhibit B, ¶ 11). For these reasons, NSI’s attempt to portray Threshold’s litigation conduct in this Opposition as “vexatious” is both inaccurate and unfair.

D. NSI's Attempts to Obfuscate Should Be Rejected

Although NSI devotes a substantial portion of its brief attempting to establish that Threshold has made “damaging admissions” that establish the Notice as “clearly harassing,” NSI’s efforts are misguided. (Memorandum at 5-7). First, the alleged “admissions” that NSI cites³ have absolutely nothing to do with the appropriate scope of the Notice. Threshold’s efforts to police the TEL Marks could conceivably bear upon a likelihood of confusion analysis, but such efforts are unrelated to the discovery sought here: NSI’s use of its own marks on its own goods. Second, even if such “admissions” were relevant, NSI has gotten its facts wrong. NSI misleadingly states that Threshold “admitted that it was aware of and did not object to” a number of third party marks. (Memorandum at 6). In actuality, *none* of NSI’s requests for admission sought an admission from Threshold regarding its awareness or knowledge of such marks. (*See* Exhibit 1 to Decl. of Richard, attached to Memorandum, Request Nos. 1-32). NSI’s efforts to piece together a picture of litigation harassment through Threshold’s discovery responses are without basis, and NSI’s motion should be denied.

II. MOTION TO SUSPEND PROCEEDINGS

Threshold’s Rule 30(b)(6) deposition of NSI was properly noticed to occur before the close of discovery in this matter on November 11, 2007. Because NSI filed its Motion, Threshold was unable to complete the deposition on or before November 11, 2007. Threshold therefore respectfully requests, pursuant to T.B.M.P. § 510.02 and 37 C.F.R. § 2.117, that the Board suspend these proceedings pending the Board’s determination of the Motion and, if the Motion is resolved partially or completely in favor of Threshold, reset the remaining case

³ In its Memorandum, NSI cites to various responses to requests for admission (which appear to be misnumbered) in which Threshold admitted that (1) it did not petition to cancel two specific trademark registrations; and (2) it did not object to use of certain third party marks containing the words “Natural” or “Sources” or both. (Memorandum at 6-7).

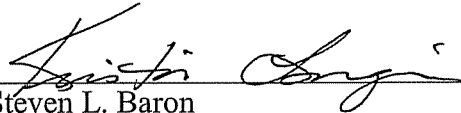
management dates with sufficient time to permit the parties to schedule the Rule 30(b)(6) deposition.

CONCLUSION

For the foregoing reasons, Threshold respectfully requests that the Board: (a) deny NSI's Motion and allow Threshold's Rule 30(b)(6) deposition of NSI to proceed as noticed or, in the alternative, to allow the deposition to proceed on the topics as limited to factual matters relating to the slogan mark SOURCED FROM NATURE . . . PERFECTED BY SCIENCE; and (b) grant Threshold's motion to suspend proceedings pending resolution of the Motion and to reset scheduling dates.

Dated: November 26, 2007

Respectfully submitted,

By: 

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Kristin L. Lingren
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*Attorneys for Opposer Threshold
Enterprises, Ltd.*

EXHIBIT A

Declaration of Barry Sugarman

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

THRESHOLD ENTERPRISES, LTD.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91159361
)	
NATURAL SOURCE)	
INTERNATIONAL, LTD.,)	
)	
Applicant.)	

DECLARATION OF BARRY SUGARMAN

I, Barry Sugarman, under penalty of perjury, declare that the foregoing is true and correct to the best of my knowledge:

1. I am Consultant to the President, Threshold Enterprises Ltd. (“Opposer” or “Threshold”) and, in my capacity as Consultant since 1994, have become familiar with Threshold’s use of its trademarks and trade name in commerce, Threshold’s advertising and promotional practices and activities, and activities and proceedings Threshold is involved in to police and/or protect its trademarks and trade name.

2. I make this declaration based upon my personal knowledge and belief in support of Opposer’s Response to Applicant’s Motion for Protective Order.

3. Opposer has invested substantial amounts of time, effort and money in developing and enhancing the strength of the mark SOURCE NATURALS and trade name SOURCE NATURALS, INC. in conjunction with its products.

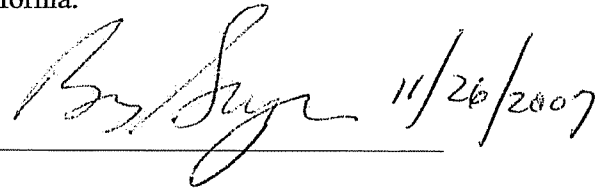
4. Over the years, Threshold has received many national awards by industry trade publications, including Vitamin Retailer Magazine, Health Products Magazine and the Comparative Guide to Nutritional Supplements.

5. Threshold and Natural Source International, Ltd. ("NSI") are competitors in the market of dietary and nutritional supplements.

6. NSI frequently has used a shortened version of its trade name, "Natural Source," as a brand name alone or in conjunction with NSI's product names, the Slogan Mark, and other marks in advertising and promotional materials.

7. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on November 26, 2007, Los Angeles, California.

A handwritten signature in cursive script, appearing to read "Barry Sugarman", followed by the date "11/26/2007". The signature and date are written above a horizontal line.

Barry Sugarman

EXHIBIT B

Declaration of Kristin Lingren

5. The morning of November 2, 2007, I called Virginia Richard, counsel for NSI. I was informed that Ms. Richard was out of the office, traveling.

6. Shortly after making this phone call, I followed up with Ms. Richard via e-mail to suggest a very brief extension of discovery to allow the parties to advance their settlement discussions without the “distraction of the Rule 30(b)(6) issues.” A true and correct copy of my November 2 e-mail is attached hereto as Exhibit 3.

7. Ms. Richard responded promptly that she would let Threshold know on Monday, November 5 if NSI would agree to an extension. A true and correct copy of Ms. Richards’ November 2 e-mail is attached hereto as Exhibit 4.

8. On Monday, November 5, 2007, Ms. Richard left me a voice mail message rejecting the suggestion to extend discovery.

9. On Tuesday, November 6, 2007, both of the attorneys working on behalf of Threshold, Mr. Baron and I, were engaged in a meeting out of the office to prepare for an out of town mediation to be held later that week in another unrelated matter. NSI filed its motion for a protective order on Tuesday, November 6.

10. The document attached to this Declaration as Exhibit 5 is a true and accurate printout of a record available on the United States Patent and Trademark Office’s Trademark Electronic Search System, accessed on November 19, 2007, regarding the abandoned mark NATURAL SOURCE SOURCED FROM NATURE ... PERFECTED BY SCIENCE.

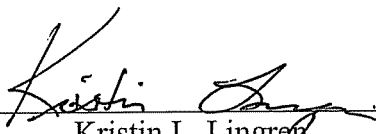
11. In December of 2006, NSI’s counsel, Monica Richman, requested that Threshold draft a settlement agreement picking up where the parties’ prior settlement discussions had stalled. Threshold’s counsel did so, but NSI refused to engage in discussions after Threshold presented the proposal to it. In May of 2007, NSI’s new counsel, Lana Marina, requested that

Threshold assemble additional settlement materials for a proposal and further discussions, but afterwards failed to engage in any substantive discussions with Threshold's counsel.

12. When the terms of a stipulated protective order to govern the handling of confidential material in this proceeding continued to be at issue in May of 2007, Threshold met and conferred with NSI numerous times to try to reach an agreement. Those efforts were unsuccessful.

13. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 26, 2007 in Chicago, Illinois.



Kristin L. Lingren

166481

EXHIBIT

1

Kristin L. Lingren

From: Kristin L. Lingren
Sent: Wednesday, October 24, 2007 8:39 AM
To: 'VRichard@winston.com'; Sanjana Chopra (schopra@winston.com)
Cc: Steven L. Baron
Subject: Threshold Enterprises v. Natural Source International
Attachments: Rule 30(b)(6) Deposition Notice.pdf

Counsel,

Attached please find Threshold's Notice of Rule 30(b)(6) Deposition. We are willing to work with you to find a mutually-agreeable date for the deposition to go forward if November 7 presents a scheduling conflict.

Regards,

Kristin L. Lingren
MANDELL MENKES LLC
333 West Wacker Drive, Suite 300
Chicago, Illinois 60606
General phone: 312.251.1000
Direct phone: 312.759.2766
General fax: 312.251.1010
Direct fax: 312.251.4636
E-mail: klingren@mandellmenkes.com
Website: www.mandellmenkes.com

11/26/2007

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

THRESHOLD ENTERPRISES, LTD.,)

Opposer,)

v.)

NATURAL SOURCE)
INTERNATIONAL, LTD.,)

Applicant.)

Opposition No. 91159361

NOTICE OF RULE 30(b)(6) DEPOSITION

TO: Ms. Virginia Richard
Ms. Sanjana Chopra
Winston & Strawn LLP
200 Park Avenue
New York, New York 10166-4193

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(6) and TBMP Rule 404.03(a)(1), Opposer Threshold Enterprises, Ltd. will take the deposition of the employee(s), agent(s) or other representative(s) of Applicant Natural Source International, Ltd. with the most knowledge regarding the topics listed in the attached Rider.

The deposition will be taken by stenographic means on November 7, 2007, at 10:00 a.m. at the offices of Satterlee Stephens Burke & Burke LLP, 230 Park Avenue, 11th Floor, New York, New York 10169-0079. The deposition will continue until completed

THRESHOLD ENTERPRISES, LTD.

By: 

One of Its Attorneys

Steven L. Baron
Kristin L. Lingren
Mandell Menkes LLC
333 West Wacker Drive, Suite 300
Chicago, IL 60606
(312) 251-1000
333 West Wacker Drive, Suite 300
Chicago, Illinois 60606

RIDER

DEFINITIONS

1. "Marks" means SOURCED FROM NATURE . . . PERFECTED BY SCIENCE and/or NATURAL SOURCE (with or without design).
2. "NSI" means Applicant Natural Source International, Ltd., its predecessors, divisions, subsidiaries, affiliates, agents and others acting or purporting to act on its behalf.
3. "Opposer's Marks" means SOURCE NATURALS and SOURCE NATURALS, INC.
4. "Products" means those products and/or services NSI has sold, offered for sale, advertised, promoted, marketed, and/or distributed in connection with the Marks.
5. "Threshold" means Opposer Threshold Enterprises, Ltd., its predecessors, divisions, subsidiaries, affiliates, agents and others acting or purporting to act on its behalf.

TOPICS

Unless otherwise indicated, all topics cover the time period of January 1, 2000 through the present and the United States in terms of geographical scope

1. General information concerning the Products, including but not limited to the following: name, type, purpose/use, and length of time offered/advertised in the marketplace.
2. The manner in which the Marks have been used in connection with the Products, including but not limited to the types and manner of use in connection with marketing and promotional materials, labels and product packaging, internet advertising and/or internet websites; the placement/collocation of the Marks on marketing and promotional materials, labels and product packaging, internet advertising and/or internet websites; and the dates and duration of particular uses.

3. The demographics of the purchasers of the Products, including but not limited to geographic location, age, profession, education, and income

4. The channels of trade and geographical scope in which the Products are offered for sale, promoted, advertised, marketed, distributed and/or sold.

5. The volume of sales in units and dollars for each of the Products.

6. NSI's efforts and expenditures to advertise, market, and/or promote the Products.

7. The extent and manner in which NSI intends to use the Marks in connection with its Products in the future, including but not limited to the anticipated, intended, and/or planned-upon: types or methods of advertising, marketing, and/or promotion of the Marks, types of goods/services in connection with which the Marks would be used, channels of trade, geographical scope of use of the Marks, and expenditures for advertising, marketing, and/or promoting goods/services in connection with the Marks.

8. NSI's design and/or selection of the Marks for use on its Products, including but not limited to any inquiry or investigation conducted by or on behalf of NSI concerning use of the same or similar marks or trade names by third parties.

9. NSI's design and/or selection of NATURAL SOURCE as a trade name (or component of NSI's trade name).

10. NSI's monitoring, enforcement, and/or policing of the use of the Marks by third parties, including any action or steps NSI has taken to prevent or stop unauthorized or infringing use of the Marks.

11. Any instances of actual confusion, mistake, and/or deception of actual or potential customers, suppliers or others as to the source of NSI's Products and Threshold's goods and/or services, including but not limited to actual confusion, mistake, and/or deception between (a)

NSI's use of the mark SOURCED FROM NATURE . . . PERFECTED BY SCIENCE and Opposer's Marks; (b) NSI's use of the mark NATURAL SOURCE (or any combination, element, or variation thereof) and Opposer's Marks; and (c) NSI's use of a trade name or mark that includes SOURCE NATURALS as an element, including but not limited to the dates of any instances of actual confusion, facts and circumstances surrounding each instance of confusion, and the names of the persons and/or entities involved in each such instance.

12. Any complaints or comments NSI has received regarding the quality of NSI's Products or of goods and/or services offered under Opposer's Marks.

13. The identity and roles/responsibilities of NSI's corporate officers.

14. The identity and roles/responsibilities of NSI's employees, agents, or independent contractors with significant responsibility for developing Products, procuring trademarks/trademark registrations, and marketing or promoting the Products on behalf of NSI.

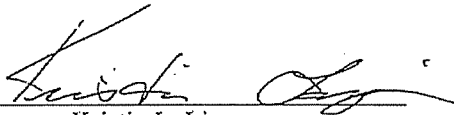
15. The search, collection, review, and production of any documents by NSI in response to Opposer's First Set of Document Requests to Applicant.

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a copy of the foregoing *Notice of Rule 30(b)(6) Deposition* was caused to be served on counsel for Applicant as follows:

Ms. Virginia Richard
Ms. Sanjana Chopra
Winston & Strawn LLP
200 Park Avenue
New York, New York 10166-4193
Email: vrichard@winston.com
schopra@winston.com

via electronic mail and U.S. first class mail, postage prepaid, properly addressed and placed in the mail chute located at 333 West Wacker Drive, Chicago, Illinois 60606 on this 24th day of October, 2007.



Kristin L. Lingren

EXHIBIT

2

WINSTON & STRAWN

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703

43 RUE DU RHONE
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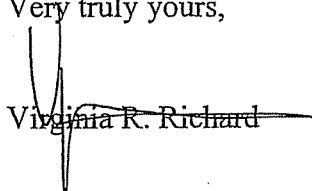
Kristin L. Lingren, Esq.
Mandell Menkes LLC
333 West Wacker Drive
Suite 300
Chicago, IL 60606

**Re: Threshold Enterprises, Ltd. v. Natural Source International, Ltd.,
T.T.A.B. Opposition No. 91159361**

Dear Kristin:

Enclosed please find Natural Source International, Ltd.'s Objections to Notice of Rule 30(b)(6) Deposition. If you wish to meet and confer regarding this matter, please let us know when you are available by the close of business on November 1, 2007. If we do not hear from you by Monday, November 5, 2007, we will file a motion for a protective order barring the deposition with the Trademark Trial & Appeal Board.

Very truly yours,


Virginia R. Richard

Enclosure

EXHIBIT

3

Kristin L. Lingren

From: Kristin L. Lingren
Sent: Friday, November 02, 2007 8:46 AM
To: 'Richard, Virginia'
Cc: Steven L. Baron; Sanjana Chopra (schopra@winston.com)
Subject: Threshold Enterprises, Ltd. v. Natural Source International, Ltd.
Importance: High

Dear Virginia,

I called your office and your assistant indicated that because you are traveling, the best way to reach you is via email.

After consultation with our client, we feel it would be worthwhile for the parties to continue to explore settlement possibilities based upon NSI's proposal. We will endeavor to provide a response today or Monday. To give the parties a few days to have further dialogue without the distraction of the Rule 30(b)(6) issues; we propose that the parties agree to a short extension of the discovery deadline along the lines of the following: a 14-day extension, with the first 7 days allocated to settlement discussions and the remaining time (if settlement discussions are not successful) allocated to revisiting Rule 30(b)(6) deposition matters, whether that ultimately consists of a compromise on the scope of the topics or motion practice.

Let us know if you are amenable to this proposal.

Regards,

Kristin L. Lingren
MANDELL MENKES LLC
333 West Wacker Drive, Suite 300
Chicago, Illinois 60606
General phone: 312.251.1000
Direct phone: 312.759.2766
General fax: 312.251.1010
Direct fax: 312.251.4636
E-mail: klingren@mandellmenkes.com
Website: www.mandellmenkes.com

EXHIBIT

4

Kristin L. Lingren

From: Richard, Virginia [VRichard@winston.com]
Sent: Friday, November 02, 2007 8:57 AM
To: Kristin L. Lingren
Cc: Steven L. Baron; Chopra, Sanjana
Subject: Re: Threshold Enterprises, Ltd. v. Natural Source International, Ltd.

Thank you for your email. We will provide reply on Monday.

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: Kristin L. Lingren <KLingren@mandellmenkes.com>
To: Richard, Virginia
Cc: Steven L. Baron <SBaron@mandellmenkes.com>; Chopra, Sanjana
Sent: Fri Nov 02 09:46:14 2007
Subject: Threshold Enterprises, Ltd. v. Natural Source International, Ltd.

Dear Virginia,

I called your office and your assistant indicated that because you are traveling, the best way to reach you is via email.

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Let us know if you are amenable to this proposal.

Regards,

Kristin L. Lingren

MANDELL MENKES LLC

333 West Wacker Drive, Suite 300

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General phone: 312.251.1000

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Website: www.mandellmenkes.com <file:///C:\Documents%20and%20Settings\klingren.DGMM_DOMAIN
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EXHIBIT

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Attorney of Record	KEVIN MACCARTHY
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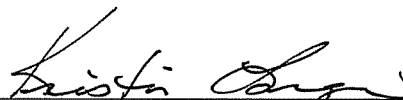
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CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2007, I caused a true and correct copy of the foregoing Opposer's Response to Applicant's Motion for Protective Order and Opposer's Motion for Suspension of Proceedings Pending Resolution and supporting Declarations of Barry Sugarman and Kristin Lingren to be served on counsel for record for Applicant by first class mail in an envelope addressed to:

Ms. Virginia Richard
Ms. Sanjana Chopra
Winston & Strawn LLP
200 Park Avenue
New York, New York 10166-4193



Kristin L. Lingren