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

Proceeding	91221493
Party	Plaintiff Shaklee Corporation
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Date	05/17/2018
Attachments	OPPOSER-COUNTERCLAIM RESPONDENTS REPLY - Proceeding No. 91221493.pdf(221695 bytes)

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

Shaklee Corporation, Opposer/Counterclaim Respondent, v. Mannatech, Incorporated, Applicant/Counterclaim Petitioner.	)	**OPPOSER/COUNTERCLAIM RESPONDENT'S REPLY TO MANNATECH'S RESPONSE TO THE MOTION FOR A PROTECTIVE ORDER TO QUASH AN OVERBROAD 30(b)(6) DEPOSITION NOTICE** Opposition No. 91221493 (parent case) (Application Ser. No. 86/128,507) Opposition No. 91223820 (Application Ser. No. 86/128,470) Opposition No. 91223821 (Application Ser. No. 86/128,560)

OPPOSER/COUNTERCLAIM RESPONDENT'S REPLY

Shaklee did not know that Mannatech's second notice on April 2 would be as broad as its initial notice or contain redundant topics. Before serving its second notice, Mannatech should have removed the redundant topics and utilized the required "painstaking specificity" needed for "[f]or Rule 30(b)(6) to effectively function." *Lead GHR Enterprises, Inc. v. Am. States Ins. Co.*, No. 3:17-MC-91-M-BN, 2017 WL 6381744, at *6 (N.D. Tex. Dec. 14, 2017). Unfortunately, Mannatech failed to remove its redundant topics or designate its topics with the required painstaking specificity. Shaklee then sought protection within 9 business days after service and 5 days before the deposition (counting the day of filing – which was not served after the close of business on the West Coast where Shaklee and its counsel are located). Seeking protection a mere 9 business days after service and 5 days before a deposition was reasonable.

The issue is also not moot. While Shaklee appeared for the deposition, the notice was too broad and it should be quashed as requested. Otherwise, Mannatech would be rewarded for its overbroad deposition notice, and the Board would be allowing non-compliance with Rule

30(b)(6). Moreover, the Rules specifically envision scenarios when a motion to quash is filed and the deponent appears. Fed. R. Civ. P. 32(a)(5)(a). Thus, appearance after filing a motion to quash does not render the motion to quash moot.

Given the failure of Mannatech to be reasonably specific in its deposition notice, the Board should quash the notice and the deposition taken after the motion to quash should not be considered in this matter.

Dated: May 17, 2018 By: _____

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 17, 2018, a true copy of the foregoing OPPOSER/COUNTERCLAIM RESPONDENT'S REPLY TO MANNATECH'S RESPONSE TO THE MOTION FOR A PROTECTIVE ORDER TO QUASH AN OVERBROAD 30(b)(6) DEPOSITION NOTICE was served on Applicant by email to:

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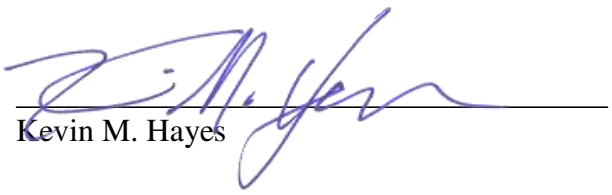

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