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

Proceeding	91243216
Party	Defendant Kelly, Elijah F Kelly and Arlette K. Bright
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Submission	Opposition/Response to Motion
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Date	04/15/2019
Attachments	Response to Motion to Compel.pdf(106881 bytes)

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

GLORYBEE NATURAL SWEETNERS, INC.)	
DBA GLORYBEE FOODS, INC.)	
AN OREGON CORPORATION)	
)	
Opposer)	
)	
v.)	Opposition No. 91243216
)	
ELIJAH F. KELLY, AN INDIVIDUAL AND)	
ARLETTE K. BRIGHT, AN INDIVIDUAL)	
)	
Applicants)	
_____)	

RESPONSE TO MOTION TO COMPEL

Now come Applicants, Elijah F. Kelly and Arlette K. Bright (collectively, “Applicants”), and hereby respond to and oppose the Motion to Compel of Opposer, Glorybee Natural Sweeteners, Inc., t/a Glorybee Foods Inc. (“Glorybee” or “Opposer”), and state as follows:

1. Opposer takes issue with Applicants’ response to Interrogatory 10. The interrogatory and the response are as follows:
INTERROGATORY NO. 10: Identify all written business plans of Applicants related to the sale of honey.

ANSWER: Objection. Applicants’ and their company’s business plans are the protected trade secrets and intellectual property of Applicants and their company.
2. Opposer has not established a valid basis for seeking Applicants’ protected “business plans,” or any basis on which such plans are germane to this proceeding. Applicants stand by their objection.
3. Opposer takes issue with Applicants’ response to Request for Admission No. 10.

The request and response are as follows:

REQUEST NO. 1: Applicants did not have a written business plan as of the time that Applicants filed their application for registration of the SAVE THE BAYBEES mark.

RESPONSE: Objection. The Request is vague and unclear as to what is meant by “written business plan,” which term is undefined in the Requests. Subject to and without waiving that objection, Applicants state that they created a written business plan within days after filing their application for registration. They state further that they had orally discussed and formulated business plans at some length before filing their application for registration. Applicants state further that they and their company prepared detailed, written business plans in connection with a grant application they submitted to the U.S.D.A. some months after filing their application for registration.

4. The term “written business plan” is vague and unclear, and Applicants stand by that objection. Notwithstanding that objection, however, Applicants responded directly, fully, substantively, and in detail, to the Request. The response makes clear that Applicants had not prepared any “written business plan” prior to filing their application for registration, although they did so within days after, had discussed their business plan at length beforehand, and prepared a detailed business plan months later in connection with a USDA grant application.
5. Opposer takes issue with Applicants’ response to Document Request No. 12. The request and response are as follows:

REQUEST NO. 12: Produce all business plans of Applicants related to the sale of honey.

RESPONSE: Objection. Applicants’ and their company’s business plans are the protected trade secrets and intellectual property of Applicants and their company. Further, the Request seeks documents and things that are not relevant, and the Request is not reasonably tailored to lead to the discovery of relevant, admissible evidence.

6. Opposer has not established a valid basis for seeking Applicants’ protected “business plans,” or any basis on which such plans are germane to this

proceeding. Applicants stand by their objection.

WHEREFORE, Applicants respectfully request that the Board deny the Motion to Compel, in its entirety.

Date: April 15, 2019

Respectfully submitted,

AYRES, JENKINS, GORDY &
ALMAND, P.A.

/s/ Bruce F. Bright
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Response to Motion to Compel is being served on Opposer on April 15, 2019 via e-mail to counsel for Opposer as follows: ian@dascenzoiplaw.com.

/s/ Bruce F. Bright
Bruce F. Bright