

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION**

CIVIL ACTION NUMBER: 4:08CV-00137-M

FORBA HOLDING, LLC

PLAINTIFF

V.

DEBBIE HAGAN

DEFENDANT

ORDER

This matter is before the Court upon the Plaintiff's motion for partial summary judgment. [DN 18]. The Defendant has responded and has moved for dismissal of all three counts of the Complaint. [DN 30]. These matters are ripe for decision.

The Plaintiff's motion for partial summary judgment is **denied**. Plaintiff's claim for attorney's fees as the prevailing party under KRS 365.886 is dependent on the existence of a willful and malicious misappropriation of trade secrets. There are questions of fact as to whether a misappropriation took place as that term is defined in KRS 365.880(2). The Defendant did not admit to misappropriation of trade secrets when she agreed to the Consent Injunction nor did the Court find a misappropriation by signing it. She simply agreed to remove the documents she posted and the Court simply stated that the Plaintiff's trade secrets were worthy of protection. The question of misappropriation was not decided.

The Defendant's motion to dismiss all three Counts of the Complaint is **denied**. However, the Court has, by separate order, dismissed Count III of the Complaint upon

Plaintiff's motion.

This matter will be referred to the Magistrate for scheduling.

IT IS SO ORDERED.

Copies to: Debbie Hagan, *pro se*
Counsel of record