

TYAB

Marino Colmano
Harmony Resorts
13139 Azores Ave.
Sylmar, CA 91342
818-362-5170
(Note: This is a new
address.)

March 25, 2002

United States Patent and Trademark Office
Trademark Trial and Appeals Board
2900 Crystal Drive
Arlington, VA 22202-3513



04-01-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #66

RE: Opposition No 91150984
HARMONY RESORTS
Serial No. 78053590
Filed: March 16, 2001

RESPONSE TO NOTICE OF OPPOSITION

In my opinion the Opposer claim is a frivolous and inappropriate action. In answer to the Opposer's Notice of Opposition the following are numbered consecutively corresponding to Opposer filing of February 21, 2002.

1. Appears accurate.
2. As the Opposer has been using its marks successfully since 1988 in the cruise ships services, I would consider it unlikely that its customers will be confused or dissuaded from continuing their patronage. However Opposer's claim that they have been using it's mark Perfect Harmony since 1995 appears to be inaccurate as their filing date was March 19, 1999 and registration as of June 12, 2001. Therefore I submit that Opposer may have been using the name Perfect Harmony prior to Trademark application.

J.A.

3. Opposer did not supply me with copies of Exhibits 2 and 3, therefore I cannot make any comment wherever Exhibits 2 and 3 are referred to.

4. While this appears to be accurate that the Opposer used it's marks prior to my application on March 16, 2001, my mark and name are substantially different in class, usage and meaning.

5. I will accept the Opposer's statement that this is true.

6. I cannot see any compelling argument that there are confusions or conflicts. "Harmony" is a generic word used by many, many trademark holders, and "resorts" is a word that is very business specific. Note that the Opposer does not use the word "resorts," nor are they in the resort business. The Opposer's USPTO Service Mark registration lists only "transporting passengers by cruise ships." Their filing does not mention resorts, hotels, spas or anything else similar to the Harmony Resorts filing. I believe it is entirely unlikely that there could be any confusion even within the travel industry or travel agent booking business as my mark is substantially different from that of the Opposer and my usage is entirely different from that of the Opposer. The Opposer is in the cruise business and Harmony Resorts is in the health resort business.

7. I believe that the Opposer's Registration is in different classes than Harmony Resorts (without having access to Opposer's Exhibit 2 and 3). The U.S. Patent and Trademark Office lists Crystal Harmony as, IC 039. US 105. G & S: transporting passengers by luxury cruise ships. And Perfect Harmony as IC 039. US 100 105. G & S: Cruise arrangement services and cruise ship services. Harmony Resorts is listed as C 042. US 100 101. G & S: Resort hotels; health resorts and health spas.

8. The U.S. Patent and Trademark Office has listed hundreds of registrations for the use of the word HARMONY in combination with other words. They range from skin cream, giftware, candles, breakfast cereal, mail order catalogs, health foods, dinning flatware, and drinking water, other resorts and mineral water, among others. I do not believe that the Opposer should be entitled to an exclusive use of the word Harmony. My use of the word Harmony would not dilute the Opposer's marks, which as they have stated has benefited by extensive advertising.

Again, my mark is substantially different from that of the Opposer and my usage is entirely different from that of the Opposer.

I did extensive research to assure that Harmony Resorts did not interfere with any other trademark. However, in an effort to settle this matter amicably, I would be willing to make an addendum to my registration that would state more clearly the parameters of our mission in relationship to that of the opposer if necessary.

In short, the Opposer is in the cruise business and Harmony Resorts is in the health resort business. Therefore, again, I believe this is an inappropriate claim and should be dismissed.

In further correspondence please note the new address listed above and below.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Marino Colmano".

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