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

Proceeding	91201639
Party	Defendant Appinion LLC
Correspondence Address	ERIC MITTEREDER 607 P STREET NW, UNIT A WASHINGTON, DC 20001-3403 UNITED STATES ecm@appinionapps.com
Submission	Answer
Filer's Name	Jason R. Graff
Filer's e-mail	docketing@gs-iplaw.com
Signature	/JASON R. GRAFF/
Date	10/25/2011
Attachments	20111025_Answer.pdf ( 9 pages )(1308241 bytes )

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

In the Matter of:	)	
Application Serial No. 85/215,484	)	
Published in the <i>Official Gazette</i> on	)	
May 17, 2011	)	
	)	
<b>Appinion Inc.,</b>	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91201639
	)	
<b>Appinion LLC,</b>	)	
	)	
Applicant.	)	

**APPLICANT’S ANSWER TO NOTICE OF OPPOSITION**

Applicant, Appinion LLC, for its answer to the Notice of Opposition filed by Appinions, Inc. against application for registrations of Applicant’s trademark APPINION, Serial No. 85/215,484 filed on January 11, 2011, and published in the *Official Gazette* of May 17, 2011, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant admits the allegations thereof.
  
2. Answering paragraph 2 of the Notice of Opposition, Applicant admits the allegations thereof.
  
3. Answering paragraph 3 of the Notice of Opposition, Applicant admits the allegations thereof.

4. Answering paragraph 4 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

5. Answering paragraph 5 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

6. Answering paragraph 6 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

7. Answering paragraph 7 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

8. Answering paragraph 8 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

9. Answering paragraph 9 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

10. Answering paragraph 10 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

11. Answering paragraph 11 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

12. Answering paragraph 12 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

13. Answering paragraph 13 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

14. Answering paragraph 14 of the Notice of Opposition, Applicant denies each of the allegations.

15. Answering paragraph 15 of the Notice of Opposition, Applicant denies the allegation that Applicant adopted its APPINION Mark with the intent to trade off of the goodwill represented by Opposer's APPINIONS Mark and does not have sufficient knowledge or information to form a belief as to the remaining allegations contained therein and accordingly denies each of the remaining allegations.

16. Answering paragraph 16 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

17. Answering paragraph 17 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies each of the allegations.

18. Upon information and belief, Applicant affirmatively alleges that Opposer's APPINIONS Mark was not used in commerce on or before January 11, 2011.

19. Upon information and belief, Applicant affirmatively alleges that Opposer did not perform any acts on or before January 11, 2011 that would qualify as and/or constitute a use in commerce of its APPINIONS Mark.

20. Appinion LLC is a New York company having a principle place of business at 1133 Broadway Avenue, Suite 706, New York, New York 10010. On December 7, 2010, Applicant filed its Articles of Organization with the State of New York (*see attached*) and such date is prior to the Opposer's alleged first use in commerce date of December 14, 2010 of its APPINIONS Mark.

21. Upon information and belief, Applicant affirmatively alleges that Opposer had actual or constructive knowledge, or should have known of Applicant's APPINION Mark on December 14, 2010 because Opposer's principle place of business is located in New York and Applicant filed its Articles of Organization with the State of New York on December 7, 2010.

22. Upon information and belief, Applicant affirmatively alleges that Opposer had actual or constructive knowledge, or should have known of Applicant's APPINION Mark when it performed the alleged acts that allegedly constitute a use in commerce of its APPINIONS Mark on December 14, 2010.

23. Upon information and belief, Applicant affirmatively alleges that Opposer performed the alleged acts that allegedly constitute a use in commerce of its APPINIONS Mark on December 14, 2010 with the intent to dilute Applicant's APPINION Mark and/or to deprive Applicant the use of its APPINION Mark.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed.

Respectfully submitted,

Appinion LLC

Dated: October 25, 2011

By: /JASON R. GRAFF/  
*Jason R. Graff, Esq.*  
Griffiths & Seaton PLLC  
2108 North Lemon Street  
Mesa, Arizona 85215  
(480) 626-5013  
Attorneys for Applicant

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing  
APPLICANT'S ANSWER TO NOTICE OF OPPOSITION to be served upon:

JOEL BOCK  
SNR DENTON US LLP  
P.O. BOX #061080  
WACKER DRIVE STATION, WILLIS TOWER  
CHICAGO, ILLINOIS 60606-1080

by placing same in an envelop, properly seal and addressed, with postage prepaid and  
depositing same with the United States Postal Service on this 25<sup>th</sup> day of October, 2011.

/JASON R. GRAFF/  
Jason R. Graff

Filed with the TTAB via  
ESSTA on October 25, 2011

***STATE OF NEW YORK***  
***DEPARTMENT OF STATE***

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of  
the Department of State, at the City of  
Albany, on December 8, 2010.

A handwritten signature in black ink, appearing to read "Daniel E. Shapiro".

Daniel E. Shapiro  
First Deputy Secretary of State

101207000 P45

OPALID. 947250

New York State  
Department of State  
Division of Corporations, State Records  
and Uniform Commercial Code  
Albany, NY 12231

*(This form must be printed or typed in black ink)*

## ARTICLES OF ORGANIZATION OF

Appinion LLC  
*(Insert name of Limited Liability Company)*

Under Section 203 of the Limited Liability Company Law

**FIRST:** The name of the limited liability company is: Appinion LLC

**SECOND:** The county, within this state, in which the office of the limited liability company is to be located is: Monroe

**THIRD:** The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

Appinion LLC

125 Tech Park Drive

Rochester, NY 14623 USA

Eric Mittereder  
*(signature of organizer)*

Eric Mittereder  
*(print or type name of organizer)*

101207000845

# ARTICLES OF ORGANIZATION OF

**Appinion LLC**  
*(Insert name of Limited Liability Company)*

Under Section 203 of the Limited Liability Company Law

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Filed by: Eric Mittereder  
*(Name)*

607 P Street, NW  
Apartment A  
*(Mailing address)*

Washington, DC 20001 USA  
*(City, State, Zip code, and Country)*

Note: This online form was prepared by the NYS Department of State and the NYS Governor's Office of Regulatory Reform for filing articles of organization for a domestic limited liability company. It does not contain all option provisions under the law. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores. The Department of State recommends that legal documents be prepared under the guidance of an attorney. The certificate must be submitted with filing fee.

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STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED DEC 07 2010

TAXS \_\_\_\_\_

BY: JCH

JCH

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