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

Proceeding	91224132
Party	Defendant Kathleen Kvalvik
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Submission	Answer
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Date	11/16/2015
Attachments	APPLICANT'S ANSWER TO OPPOSITION.pdf(18905 bytes) Attorney's Correspondence Re Late Filing of Answers.pdf(16215 bytes)

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

EHARMONY, INC.,

Opposer,

v.

KATHLEEN KVALVIK,

Applicant.

Opposition No.: 91224132

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

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313

ANSWER TO NOTICE OF OPPOSITION

Applicant, KATHLEEN KVALVIK, hereby answers the Notice of Opposition filed by EHARMONY, INC. against application for registration of Applicant's trademark HARMONY GIRL, Serial No 86,497,265 filed January 7, 2015 and published in the Official Gazette on June 2, 2015.

1. Applicant admits the allegations of paragraphs 1 and 2 of the Notice of Opposition.
2. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 3 to 10 of the Notice of Opposition, and accordingly denies the same. Applicant does note that Exhibit A does appear to be copies of trademark registrations.

3. Applicant admits the allegations of paragraphs 11 to 13 of the Notice of Opposition.

4. Applicant denies the allegation of paragraph 14 of the Notice of Opposition to the extent that Applicant's Proposed Mark is not likely to cause confusing among consumers.

4. Applicant denies the allegations of paragraph 15 of the Notice of Opposition, nowhere on Applicant's website does Applicant use the ® registered symbol.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 16 to 18 of the Notice of Opposition, and accordingly denies the same.

6. Applicant denies the allegations of paragraphs 19 to 26 of the Notice of Opposition.

7. Applicant admits the allegations of paragraph 27 of the Notice of Opposition.

8. Applicant denies the allegations of paragraph 28 to 31 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

9. There is no likelihood of confusion, mistake or deception because Applicant's mark and the pleaded marks of Opposer are not confusingly similar.

10. Opposer is in the business of relationship services and online dating. Applicant is in the business of promoting a healthy living, fitness, and weight loss. A dating business would not be confused with a weight loss business.

11. The connotation of Opposer's and Applicant's marks are different. Opposers's pleaded marks have a connotation of love and unity. However, Applicant's mark has a connotation of strength and health.

12. Since the adoption of Applicant's mark it has become a valuable asset of Applicant and carries considerable goodwill and consumer acceptance of its services. Such goodwill and widespread usage has made the mark distinctive to the Applicant.

13. The mark portion "HARMONY" is common in the services industry and cannot be distinctive to the Opposer. Since no other portions of the HARMONY GIRL mark are in any

way similar to the EHARMONY mark of Opposer, there can be no likelihood of confusion. Many third party registrations and uses now exist and have existed of HARMONY-containing marks in the services industry.

14. In view of the foregoing, Applicant contends that this opposition is groundless and baseless in fact. Opposer has not shown wherein it will be, or likely to be damaged by the registration of Applicant's trademark. Applicant's trademark is manifestly distinct from any alleged mark of the Opposer or any designation of the Opposer.

WHEREFORE, Applicant request that the notice of opposition be dismissed.

Respectfully submitted,



DATED: November 13, 2015

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(818) 986-9100

ATTORNEY FOR
Kathleen Kvalvik

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed first-class, postage prepaid, to Lisa Greenwald-Swire, Fish & Richardson, P.C., P.O. Box 1022, Minneapolis, MN 55440, attorneys for Opposer, this 16th day of November, 2015.



Zina Yu
ATTORNEY FOR
Kathleen Kvalvik

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

EHARMONY, INC.,

Opposer,

v.

KATHLEEN KVALVIK,

Applicant.

Opposition Nos.: 91224132 and 91224133

**APPLICANT'S EXPLANATION OF THE
LATE FILING OF APPLICANT'S
ANSWERS**

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313

Applicant's Answer to the Oppositions Nos. Opposition Nos. 91224132 and 91224133 (the "Oppositions" hereafter) was due on November 9, 2015. However, our office has not received any notices from the USPTO setting forth the deadline and procedures to follow in connection with the Oppositions. When our office received the copies of the Oppositions from the opposing counsel, we anticipated receiving a Notice of Opposition from the USPTO ESTTA setting forth the time to answer, deadline for discovery conference, and etc., a similar notice that our office received for the mark "HARMONY METHOD" Opposition No. 91224367 to which our office filed an answer in a timely manner upon receipt of the same.

Since the corresponding attorney on this matter is David P. Beitchman at our office, I also inquired Mr. Beitchman if he received such notice regarding the same. Mr. Beitchman stated that he did not receive such notices for the Oppositions. It is our common practice that Mr. Beitchman forwards any and all letters, correspondence, especially notice of opposition received

from the USPTO to me immediately upon its receipt. It is our belief that the notice, if it was ever sent, was identified as a spam mail and went straight to the spam inbox. However, our office was unable to locate such notice in the spam box. Currently, our office lacks knowledge as to what happened to the notices of the Oppositions and why our office did not receive such notice when the notice of opposition for the Opposition No.91224367 was received by our office without a problem. Accordingly, Applicant's late filing of Answers in connection with the Opposition is neither intentional nor as a result of our office's negligence or lack of due diligence and definitely is not through Applicant's fault. Immediately upon discovering the deadline for the Answer to the Oppositions, our office contacted the Interlocutory Attorney, GEORGE POLOGEORGIS and sought his assistance with possible remedies. The attorney advised our office to file the Answers with a letter explaining the late filing of the Answer.

Based on the foregoing, Applicant respectfully requests that the Trademark Trial and Appeal Board deem Applicant's Answers to the Oppositions timely and consider Applicant's Answer in determining the merits of this case.

Respectfully submitted,



DATED: November 16, 2015

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