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

Proceeding	91226424
Party	Defendant Intellisphere, LLC
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Date	03/29/2016
Attachments	VB-ONC Answer.pdf(14883 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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_____	)	
Engage HealthCare Communications, LLC,	)	
	)	
Opposer,	)	Opposition No. 91226424
	)	Application Serial No. 86/726,213
v.	)	Mark: V- ONC
	)	Class 041
Intellisphere, LLC,	)	
	)	
Applicant.	)	
_____	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Intellisphere, LLC ("Applicant"), hereby sets forth the following Answer to the Notice of Opposition filed by Engage HealthCare Communications, LLC ("Opposer").

Applicant denies any of the allegations, assertions, and conclusions of law that may be contained in the introduction. In response to the specifically enumerated paragraphs of the Notice of Opposition, Applicant responds as follows:

1. Admitted.

2. Applicant admits that the mark, ownership, status, proposed goods, and application particulars referenced in Paragraph 2 for the Intent-to-Use U.S. Trademark Application Serial No. 86/726,213 corresponds with U.S. Patent & Trademark Office online records for the same.

To the extent that a response is required, Applicant denies any conclusions, assertions or implications asserted by Opposer.

3. Applicant denies that the mark V-B ONC is an acronym that is understood by the relevant consumers as having a defined or consistent meaning; to the extent a further response is required, Applicant is without knowledge or information sufficient to form a belief as to the truth

of the allegation set forth in Paragraph 3 of the Notice of Opposition and therefore, denies the same, leaving Opposer to its proof of those allegations.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation set forth in Paragraph 4 of the Notice of Opposition and therefore, denies the same, leaving Opposer to its proof of those allegations.

5. Applicant denies that Opposer promotes advertising services for others; to the extent a further response is required, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation set forth in Paragraph 5 of the Notice of Opposition and therefore, denies the same, leaving Opposer to its proof of those allegations.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation set forth in Paragraph 6 of the Notice of Opposition and therefore, denies the same, leaving Opposer to its proof of those allegations.

7. Applicant denies that Opposer is the owner of the marks represented in US. App. Serial Nos. 85465504, 85451604, and 85527307, as these applications and marks owned by Applicant. Further Answering, Applicant denies the validity of the marks, applications and registrations that are actually owned by Opposer as listed in Paragraph 7, comprising US Reg. Nos. 3942361, 3927515, 3918282, 3918281 and US App. Serial Nos. 85504970, 85519131, 85473377, and 85488889. The alleged trademarks that are actually owned by Opposer comprise merely descriptive terms that carry no source indicating function and have no secondary meaning. Otherwise, Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining factual allegations contained in Paragraph 7 of the Notice of Opposition and denies the same, leaving Opposer to its proof of those allegations.

8. Denied.

9. Denied as to any claim or inclusion of the marks represented in US. App. Serial Nos. 85465504, 85451604, and 85527307 as marks and applications owned by Opposer and included in the defined term “Marks.” Further answering, Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 9 of the Notice of Opposition and therefore, denies the same, leaving Opposer to its proof of those allegations.

10. Denied as to any claim or inclusion of the marks represented in US. App. Serial Nos. 85465504, 85451604, and 85527307 as marks and applications owned by Opposer and included in the defined term “Marks.” Further answering, Applicant denies the remaining allegations set forth in Paragraph 10.

11. Denied as to any claim or inclusion of the marks represented in US. App. Serial Nos. 85465504, 85451604, and 85527307 as marks and applications owned by Opposer and included in the defined term “Marks.” Further answering, Applicant denies the remaining allegations set forth in Paragraph 11.

12. Denied as to any claim or inclusion of the marks represented in US. App. Serial Nos. 85465504, 85451604, and 85527307 as marks and applications owned by Opposer and included in the defined term “Marks.” Further answering, Applicant denies the remaining allegations set forth in Paragraph 12.

13. Denied as to any claim or inclusion of the marks represented in US. App. Serial Nos. 85465504, 85451604, and 85527307 as marks and applications owned by Opposer and included in the defined term “Marks.” Further answering, Applicant denies the remaining allegations set forth in Paragraph 13.

14. Denied as to any claim or inclusion of the marks represented in US. App. Serial Nos. 85465504, 85451604, and 85527307 as marks and applications owned by Opposer and included in the defined term “Marks.” Further answering, Applicant denies the remaining allegations set forth in Paragraph 14.

15. Denied.

16. Denied.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

The Notice of Opposition fails to state a claim upon which relief may be granted.

#### **Second Affirmative Defense**

Applicant's use of its applied for mark is not likely to cause damage or injury to Opposer.

#### **Third Affirmative Defense**

Applicant’s Mark is not likely to confuse, cause mistake or deception, nor will it cause a false association with Opposer.

#### **Fourth Affirmative Defense**

Opposer’s claims are barred by one or all of the doctrines of unclean hands, laches, waiver, acquiescence, or equitable estoppel.

#### **Fifth Affirmative Defense**

Opposer’s alleged trademarks are invalid and unenforceable for failure to comply with one or more provisions of the trademark laws and regulations of the United States.

**Sixth Affirmative Defense**

Opposer's alleged trademarks and service marks are common and merely descriptive terms for the products and services with which they are used, are not distinctive and have no source identifying significance, and thus cannot be the basis of any claim against Applicant.

**Seventh Affirmative Defense**

Applicant hereby gives notice that it intends to rely upon such other and further defenses as may become available through discovery or otherwise and reserves its right to assert and rely upon such further defenses as of right or by appropriate motion.

Respectfully submitted,

Intellisphere, LLC,

/s/ Jeremy Blackowicz/

Mark Salah Morgan

Jeremy Blackowicz

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Dated: March 29, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served upon the attorney of record for the Opposer by electronic mail as well as by First Class mail, postage pre-paid, as follows:

Brain L. Petrequin, Esq.  
LeClair Ryan  
One Riverfront Plaza  
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United States  
iplaw@leclairryan.com

Signature: /s/ Jeremy Blackowicz/

By: Jeremy Blackowicz

Date: March 29, 2016