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

Proceeding	91192908
Party	Defendant BrainHarmony, Inc
Correspondence Address	BRAINHARMONY, INC BRAINHARMONY, INC 4000 BIRCH ST STE 201A NEWPORT BEACH, CA 92660-2259  mjunge@mybrainharmony.com
Submission	Answer
Filer's Name	Michael Junge
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Signature	/Michael Junge/
Date	12/07/2009
Attachments	Response to eHarmony USPTO.pdf ( 3 pages )(449240 bytes )

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

In the matter of Application Serial No. 77/408,673  
Filed on February 28, 2008  
For the mark **BRAINHARMONY**  
Published in the *Official Gazette* on August 11, 2009

**Answer to Notice of Opposition**

Opposition No. 91192908  
Serial No. 77408673

BrainHarmony, Inc (Applicant), a corporation organized and existing under the laws of the State of California, responding to allegations of damage by eHarmony (Opposer).

**Responses to allegations:**

1. Accept
2. Accept
3. Not enough knowledge to respond
4. Not enough knowledge to respond
5. Not enough knowledge to respond
6. Not enough knowledge to respond
7. Not enough knowledge to respond
8. Not enough knowledge to respond
9. Not enough knowledge to respond. If accurate, we congratulate eHarmony on the extent of their success.
10. Deny. The marks relate to fundamentally different services and priority is not relevant.
11. Deny. There is no confusion between the word "Brain" and the letter "e". Americans are fully competent to distinguish between eHarmony, an online dating service, and BrainHarmony, a bricks and mortar brain training service.
12. Deny. There is no relationship between Brain Training using Biofeedback, Neurofeedback, or other comparable technology and the "science" of matching potential dating partners.
13. Deny. There is no confusion between the word "Brain" and the letter "e". To imply that Americans and other consumers can't tell the difference is, quite frankly, a little insulting.
14. Deny. There is no overlap in business model or service offering, nor does there exist any relationship, real or implied, between the services offered by BrainHarmony and those offered by eHarmony. There is nothing to confuse and no basis for confusion.
15. Deny. BrainHarmony is a legitimate business operating under legitimate and very straightforward guidelines. Please visit [www.mybrainharmony.com](http://www.mybrainharmony.com) to further clarify.
16. Deny. No damage is possible as there is no overlap between service offerings.
17. Accept and irrelevant. There is no relationship between the business models or service offerings.
18. Deny. Knowledge of the service offering, but not the marks or status with the USPTO.
19. Deny. Knowledge of the service offering, but not the marks or status with the USPTO.
20. Accept. No knowledge or consent was relevant or necessary, as there is no overlap or correlation between business models.
21. Deny. BrainHarmony advertising has centered on word of mouth advertising; our existence depends on the good will of our customers.
22. Deny. BrainHarmony offers scientifically valid and highly beneficial services that stand on their own strengths and merits.

23. Not enough knowledge to respond
24. Deny. There is not, nor has there ever been, and deceit or attempted deceit of anyone, let alone the public at large. The claims are unfounded, unsubstantiated, and completely inaccurate.

This Notice of Response to Opposition is submitted electronically.

Signed:

A handwritten signature in black ink, appearing to read 'Michael B Junge', written over a horizontal line.

Michael B Junge, CEO and Founder  
BrainHarmony, Inc

Date: 12/7/2009

# Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Response to the Notice of Objection has, this 7<sup>th</sup> of December 2009, been mailed to the below identified correspondent of record at his/her place of business.

Lisa Greenwald-Swire  
Andrew M. Abrams  
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A handwritten signature in black ink, appearing to read "Michael Junge", is written over the printed name and date.

Signed: Michael Junge  
12/7/09